

## DISCLAIMER

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### General block exemption Regulation (Reg. 651/2014) – working document

#### Aid to make good the damage caused by certain natural disasters

First the general conditions of application of the GBER should be checked (12 conditions / Articles 1 -12) AND then the conditions with regard to the Aid to make good the damage caused by certain natural disasters

#### A. General conditions of application.

| GENERAL COMPATIBILITY CONDITIONS   | COMPLIANCE CHECK (OK?) |
|--|------------------------|
| <b>Article 1 - Exclusion of certain activities (§2)</b>  |                        |
| Shall <b>not</b> apply to: <ul style="list-style-type: none"><li>• Aid to export related activities</li><li>• Aid contingent upon use of domestic over imported goods.</li></ul>   |                        |
| <b>Article 1 - Exclusion of certain sectors (§3)</b>   |                        |
| <ul style="list-style-type: none"><li>• Fishery and aquaculture* (as in Reg 1379/2013)</li><li>• Primary production of agricultural products*</li><li>• The processing and marketing of agricultural products* <b>if the amount of aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned; or when the aid is conditional on being partly or entirely passed on to primary producers;</b></li><li>• Aid to facilitate the closure of uncompetitive coal mines (Council decision 2010/787);<br/>* <i>If undertaking active also in sectors within the scope of the this Regulation, the Regulation applies to aid granted in respect of these sectors provided that MS ensures that the activities in the excluded sectors do not benefit from the aid</i></li></ul> |                        |
| <b>Article 1 - Exclusion of companies concerned by the Deggendorf rule (§4)</b>  |                        |
| N/A  |                        |
| <b>Article 1 - Exclusion of companies in difficulty (§4)</b>   |                        |
| N/A  |                        |
| <b>Article 1 - Exclusion of aid measures violating Union Law (§5)</b>  |                        |
| Shall <b>not</b> apply to State aid measures, which entail a non-severable violation of Union law,   |                        |

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| in particular:<br>(a) obligation for the beneficiary to have its headquarters or to be predominantly established in the relevant Member State. Requirement for an establishment or branch in the aid granting Member State at the moment of payment of the aid is allowed.<br>(b) obligation to use nationally produced goods or national services;<br>(c) restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.  |  |
| <b>Article 4 - Individual notification thresholds</b>   |  |
| N/A   |  |
| <b>Article 5 – Transparency of aid</b>  |  |
| Shall apply to transparent aid and shall be considered as transparent:<br><ul style="list-style-type: none"><li>• Grants and interest rate subsidies</li><li>• Loans (where gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant)</li><li>• Guarantees<br/>(gross grant equivalent calculated on the safe-harbour premiums laid down in a Commission Notice</li></ul> or<br>gross grant equivalent accepted before implementation on the basis of the Com Notice on Guarantees and the approved calculation methodology explicitly addresses the type of the guarantee and the type of the underlying transaction at stake in the context of the application of the GBER)<br><ul style="list-style-type: none"><li>• Tax advantages (when cap to ensure that threshold is not exceeded)</li><li>• Repayable advances (if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission)</li></ul> |  |
| <b>Article 6 - Incentive effect</b>   |  |
| <ul style="list-style-type: none"><li>• Conditions laid down in Article 50 to be fulfilled.</li></ul>   |  |
| <b>Article 7 - Eligible costs</b>   |  |

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| <p>For the purposes of calculating the aid intensity</p> <ul style="list-style-type: none"><li>• Figures before any deduction of tax or other charge;</li><li>• Aid granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid</li><li>• Aid payable in several instalments shall be discounted to its value when granting (same for eligible costs and with interest rates of the moment of granting);</li><li>• Tranches of aid in tax advantages shall be discounted on the basis of the discount rates applicable at the moment the tax advantages take effect;</li><li>• Aid in repayable advances which, in the absence of an accepted methodology calculating their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the moment the aid is granted, the maximum aid intensity may be increased by 10 percentage points.</li></ul> <p>Eligible costs &amp; documentation</p> <ul style="list-style-type: none"><li>• Eligible costs supported by clear, specific and contemporary documents.</li></ul> |  |
| <b>Article 8 - Cumulation</b>  |  |
| <ul style="list-style-type: none"><li>• <b>Total amount</b> of aid shall be taken into account for thresholds and maximum aid intensities (§1);</li><li>• If <b>Union funding</b> (not under the control of the Member State) is combined with State aid, only the latter shall be considered for determining whether notification thresholds and maximum aid intensities or maximum aid amounts are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate laid down in the applicable rules of Union law (§2);</li><li>• Exempted aid may be cumulated with any other State aid if <b>different identifiable costs</b> (§3a);</li><li>• No cumulation of exempted aid with any other aid on the <b>same eligible costs</b>, partly or fully overlapping, if the result would exceed the highest aid intensity/amount applicable to this aid (§3b);</li></ul>  |  |

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| <ul style="list-style-type: none"><li>• State aid exempted under the GBER shall not be cumulated with any <b>de minimis</b> aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those laid down in Chapter III of the GBER (§5).</li></ul>   |  |
| <b>Article 9 – Publication and information</b>   |  |
| <ul style="list-style-type: none"><li>• Publication on a comprehensive State aid website, at national or regional level of the following (§1):<ol style="list-style-type: none"><li>a. the summary information (see Article 11) or a link providing access to it;</li><li>b. the full text of each aid measure (see Article 11) or a link providing access to the full text;</li><li>c. the information on each individual aid award exceeding EUR 500 000 (see Annex III).</li></ol></li></ul> <p>As regards aid granted to European Territorial Cooperation projects, the information referred to in this paragraph shall be placed on the website of the Member State in which the Managing Authority concerned, as defined in Article 21 of Regulation (EC) No 1299/2013 of the European Parliament and of the Council, is located. Alternatively, the participating Member States may also decide that each of them shall provide the information relating to the aid measures within their territory on the respective websites.</p> <ul style="list-style-type: none"><li>• For schemes in the form of tax advantages, and for schemes covered by Article 16 and 21 (except for SMEs which have not carried out any commercial sale in any market) the conditions set out in paragraph 1(c) of this Article shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges (in EUR million (§2):<ul style="list-style-type: none"><li>- 0,5-1;</li><li>- 1-2;</li><li>- 2-5;</li><li>- 5-10;</li><li>- 10-30; and</li><li>- 30 and more.</li></ul></li><li>• The information referred to in paragraph 1(c) shall be organised and accessible in a standardised manner, (see Annex III), and shall allow for effective search and download functions. The information referred to in paragraph 1 shall be published</li></ul> |  |

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| within 6 months from the date the aid was granted, or for aid in the form of tax advantage, within 1 year from the date the tax declaration is due, and shall be available for at least 10 years from the date on which the aid was granted (§4). |  |
| • Member States shall comply with the provisions of this Article at the latest within two years after the entry into force of this Regulation (i.e. 01/07/2016) (§6).   |  |

**For definitions on concepts:** article 2 (pay attention to the new definition of undertaking in difficulty)

**Reporting:** article 11

**Monitoring:** article 12

**Withdrawal of the benefit of the block exemption:** article 10

**B. Specific conditions for Aid to make good the damage caused by certain natural disasters** (earthquakes, avalanches, landslides, floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin)

| ARTICLE 50<br>AID TO MAKE GOOD THE DAMAGE CAUSED BY CERTAIN NATURAL DISASTERS   | COMPLIANCE CHECK (OK?) |
|---|------------------------|
| <ul style="list-style-type: none"><li>• Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1);</li><li>• Aid shall be granted subject to the following conditions (§2):<ol style="list-style-type: none"><li>a. the competent public authorities of a MS have formally recognised the character of the event as a <b>natural disaster</b>;</li><li>b. there is a <b>direct causal link</b> between the natural disaster and the damages suffered by the affected undertaking.</li></ol></li><li>• Aid schemes related to a specific natural disaster shall be introduced <b>within three years</b> following the occurrence of the event. Aid on the basis of such schemes shall be granted within four years following the occurrence (§3);</li><li>• The <b>costs</b> arising from the damage incurred as a direct consequence of the natural disaster, as assessed by an independent expert recognised by the competent national authority or by an insurance undertaking shall be eligible costs. Such damage may include material damage to assets such as buildings, equipment, machinery or stocks and loss of income due to the full or partial suspension of</li></ul> |                        |

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activity for a period not exceeding six months from the occurrence of the disaster. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the disaster. It shall not exceed the repair cost or the decrease in fair market value caused by the disaster, that is to say the difference between the property's value immediately before and immediately after the occurrence of the disaster. Loss of income shall be calculated on the basis of financial data of the affected undertaking (earnings before interest and taxes (EBIT), depreciation and labour costs related only to the establishment affected by the natural disaster) by comparing the financial data for the six months after the occurrence of the disaster with the average of three years chosen among the five years preceding the occurrence of the disaster (by excluding the two years giving the best and the worst financial result) and calculated for the same six months period of the year. The damage shall be calculated at the level of the individual beneficiary (§4);

- The aid and any other payments received to compensate for the damage, including payments under insurance policies, shall not exceed **100 % of the eligible costs** (§5).