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

#### Regional aid

First the general conditions of application of the GBER should be checked (12 conditions / Articles 1 -12) AND then the conditions with regard to Regional aid.

#### A. General conditions of application.

GENERAL COMPATIBILITY CONDITIONS	COMPLIANCE CHECK (OK?)
<p><b>Article 1 §2 - Exclusion of certain activities and aids above a certain amount</b></p> <p>Shall <b>not</b> apply to:</p> <ul style="list-style-type: none"><li>a) Regional aid schemes (with the exception of Article 15) with average annual State aid budget exceeding EUR 150 million from six months after their entry into force (this Regulation may continue to apply for a longer period to any of these aid schemes after having assessed the relevant evaluation plan notified by the Member State to the Commission, within 20 working days from the scheme's entry into force);</li><li>b) any alterations of schemes referred above other than modifications which cannot affect the compatibility of the aid scheme under this Regulation or cannot significantly affect the content of the approved evaluation plan</li><li>c) Aid to <b>export</b> related activities</li><li>d) Aid <b>contingent upon use of domestic</b> over imported goods.</li></ul>	
<p><b>Article 1§3 &amp; Article 13- Exclusion of certain sectors</b></p> <p>Article 1§3: Shall <b>not</b> apply to:</p> <ul style="list-style-type: none"><li>• Fishery and aquaculture* (as in Reg 1379/2013)</li><li>• Primary production of agricultural products* <b>except for compensation for additional costs other than transport costs in outermost regions (Article 15(2)(b))</b></li><li>• The processing and marketing of agricultural products* <b>if the amount</b> of aid is fixed on the basis of the price or quantity of such products purchased from</li></ul>	

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<p>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;</p> <p>(a) Aid to facilitate the closure of uncompetitive coal mines (Council decision 2010/787);</p> <p><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></p> <p>Article 13: Regional aid shall particularly <b>not</b> apply to:</p> <p>(a) steel sector, coal sector, shipbuilding sector, synthetic fibres sector, transport sector as well as the related infrastructure, energy generation, distribution and infrastructure</p> <p>(b) schemes targeted at a limited number of specific sectors of economic activity (tourism, broadband infrastructures or processing and marketing of agricultural products are not considered as such)</p> <p>(c) schemes compensating transport costs of goods produced in outermost regions or sparsely populated areas for activities in the production, processing and marketing of products in Annex I of the Treaty, for activities under Regulation 1893/2006 and transport of goods by pipeline</p> <p>(d) individual investment aid to a beneficiary that has closed down the same or a similar activity in the European Economic Area in the two years preceding its application or to a beneficiary which has concrete plans to close down such an activity within a period of up to two years after the initial investment for which aid is requested is completed in the area concerned;</p> <p>(e) operating aid to undertakings with principal activities under Section K 'Financial and insurance activities' of the NACE Rev.2 or to undertakings that perform intra-group activities whose principal activities fall under classes 70.10 'Activities of head offices' or 70.22 'Business and other management consultancy activities' of NACE Rev. 2.</p>	
<p><b>Article 1 - Exclusion of companies concerned by the Deggendorf rule (§4)</b></p> <p>Shall <b>not</b> apply to aid schemes which do not explicitly exclude the payment of</p>	

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individual aid in favour of an undertaking which is subject to outstanding recovery order following a previous Com. Dec. declaring an aid illegal/incompatible and shall <b>not</b> apply to ad hoc aid to such an undertaking	
<b>Article 1 - Exclusion of companies in difficulty (§4)</b>	
Shall <b>not</b> apply to aid to undertakings in difficulty	
<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, in particular: (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. (b) obligation to use nationally produced goods or national services; (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>	
Shall <b>not</b> apply to aid which exceeds: <ul style="list-style-type: none"> <li>• Regional investment aid: the ‘adjusted aid amount’ of aid, as calculated in accordance with the mechanism defined in Article 2, point 20 for an investment with eligible costs of EUR 100 million;</li> <li>• Regional urban development aid, EUR 20 million as laid down in Article 16(3);</li> </ul> The thresholds shall <b>not</b> be circumvented by artificially splitting up the aid schemes or aid projects.	
<b>Article 5 – Transparency of aid</b>	
Applies only on transparent aid & shall be considered as transparent: (a) Grants and interest rate subsidies (b) Loans (where gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant) (c) Guarantees (gross grant equivalent calculated on the safe-harbour premiums)	

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<p>laid down in a Commission Notice or 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)</p> <p>(d) Tax advantages (when cap to ensure that threshold is not exceeded)</p> <p>(e) Aid for Regional urban development (if the conditions laid down in Article 16 are fulfilled)</p>	
<b>Article 6 - Incentive effect</b>	
<p>Aid can only be exempted if incentive effect:</p> <ul style="list-style-type: none"><li>• <b>Beneficiary submitted aid application to MS, before work</b> on the project or activity starts, with at least the following information:<ul style="list-style-type: none"><li>a) undertaking's name and size;</li><li>b) description of the project, including its start and end dates;</li><li>c) location of the project;</li><li>d) list of project costs;</li><li>e) type of aid (grant, loan, guarantee, repayable advance, equity injection or other) and amount of public funding needed for the project</li></ul></li><li>• <b>Ad hoc aid to large enterprises;</b> in addition to the above, MS has verified before granting the aid that the beneficiary provided documentation demonstrating one or more of the following:<ul style="list-style-type: none"><li>a) if regional investment aid; a project is carried out, which would not have been carried out in the area concerned or would not have been sufficiently profitable for the beneficiary in the area concerned in the absence of the aid.</li><li>b) in all other cases, if there is<ul style="list-style-type: none"><li>– material increase in the scope of the project/activity due to the aid,</li><li>– or a material increase in the total amount spent by the beneficiary on the project/activity due to the aid,</li><li>– or material increase in the speed of completion of the project/activity concerned;</li></ul></li></ul></li></ul>	

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<p><b>→Exceptions</b></p> <ul style="list-style-type: none"><li>• For tax advantages, incentive effect deemed met if:<ul style="list-style-type: none"><li>a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and</li><li>b) the measure has been adopted and is in force before work on the aided project or activity has started, except in the case of fiscal successor schemes, where the activity was already covered by the previous schemes in the form of tax advantage</li></ul></li><li>• For regional operating aid, incentive effect deemed met, if the conditions laid down in Article 15 are fulfilled.</li></ul>	
<p><b>Article 7 - Eligible costs</b></p>	
<p><b>For the purposes of calculating the aid intensity</b></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><li>• Where regional aid is granted in the form of repayable advances, the maximum aid intensities established in a regional aid map in force at the moment the aid is granted may not be increased.</li></ul> <p><b>Eligible costs &amp; documentation</b></p>	

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<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>• <b>If 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><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.</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</p>	

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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.

- 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):
  - 0,5-1;
  - 1-2;
  - 2-5;
  - 5-10;
  - 10-30; and
  - 30 and more.
- 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 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

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**Monitoring:** article 12

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

### B. Specific conditions for regional aid

<b>ARTICLE 14 REGIONAL INVESTMENT AID</b>	<b>COMPLIANCE CHECK (OK?)</b>
<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>• <b>Aid granted in assisted areas (§2)</b></li><li>• <b>Initial investments</b> in areas under Article 107(3)(a) regardless of the size of the beneficiary; any form of aid to initial investments from SMEs in areas under Article 107(3)(c); for large enterprises aid only for initial investment in favour of new economic activity (§3)</li><li>• <b>Eligible costs (§4)</b><ul style="list-style-type: none"><li>– Tangible and intangible assets</li><li>– wage costs (as a result of an initial investment) calculated over a period of two years</li><li>– a combination of the two above points not exceeding the amount of one or the other whichever the higher</li></ul></li><li>• <b>Maintain the investment in the region for min. 5 years ; min. 3 years for SME</b> (does not prevent replacement of outdated or broken plant or equipment if activity retained in the region) (§5)</li><li>• <b>Assets acquired shall be new except for SMEs</b> and for the acquisition of an establishment (§6)</li><li>• <b>For leasing costs of tangible assets (§6)</b><ul style="list-style-type: none"><li>– land and buildings; continue for at least five years (large undertakings) or three years (SMEs) after completion of the project</li></ul></li></ul>	



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<ul style="list-style-type: none"><li>- plant or machinery; form of financial leasing; beneficiary obliged to purchase the asset upon expiry of the lease</li><li>- acquisition of assets under initial investment; only costs of buying from third parties unrelated to the buyer and under market conditions. If aid already granted for assets prior to their purchase; these costs deducted from the eligible ones. Member of the family of the original owner, or employee taking over a small enterprise; condition of third parties unrelated to the buyer waived. Acquisition of shares; not initial investment.</li><li>• <b>Fundamental change in the production process;</b><ul style="list-style-type: none"><li>- eligible costs to exceed depreciation of the assets in the course of the preceding three fiscal years (§7).</li><li>- diversification of existing establishment; eligible costs to exceed by at least 200 % the book value (one year before start of works) of the assets that are reused (§7)</li></ul></li><li>• <b>Cost for intangible assets</b> are eligible if (§8):<ul style="list-style-type: none"><li>- Used exclusively in the establishment receiving the aid</li><li>- Amortisable</li><li>- Purchased under market conditions from third parties unrelated to the buyer</li><li>- assets of the beneficiary; associated with the aided project for at least five years (three years for SMEs)</li><li>- large undertakings; limit of 50% of the total eligible investment costs for initial investment</li></ul></li><li>• <b>Eligible costs by reference to the estimated wage costs</b> (§9)<ul style="list-style-type: none"><li>- investment; net increase in the number of employees compared to the previous 12 months (jobs lost already deducted)</li><li>- each post filled within three years of completion of works;</li><li>- each job created maintained in the area for at least five years since first</li></ul></li></ul>	
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<p>filled (three for SMEs)</p> <ul style="list-style-type: none"><li>• <b>Broadband network development</b> (§10)<ul style="list-style-type: none"><li>– Only in areas with no network of the same category and no likelihood to be developed on commercial terms within three years from the decision to grant the aid</li><li>– network operator; offer active and passive wholesale access; fair and non-discriminatory conditions including physical unbundling in the case of NGA networks</li><li>– aid on the basis of a competitive selection process.</li></ul></li><li>• <b>Research infrastructures</b>; transparent and non-discriminatory access to the infrastructure (§11)</li><li>• <b>Aid intensity</b>; not more than the maximum in the regional aid map at the time of granting. If combination of costs for assets and wage costs (paragraph 4(c)); aid intensity not more than most favourable amount resulting from that intensity on the investment costs or wage costs. Large investment projects; aid amount not more than aid amount in accordance to Article 2, point 20 (§12)</li><li>• <b>Single Investment Project</b>: Initial investment on another aided investment; same beneficiary (at group level); three years from the date of start of works in the same NUTS3 region; is considered to be part of a single investment project. If then large investment project; total aid amount not exceed the adjusted aid amount for large investment projects (§13)</li><li>• <b>Beneficiary's contribution minimum</b> 25 % of the eligible costs. SMEs investing in outermost regions; aid intensity can be above 75 %. The beneficiary should contribute the rest (§14)</li><li>• <b>Initial investment linked to European territorial cooperation projects</b> (Regulation 1299/2013); aid intensity of the area in which the initial investment is located applies to all beneficiaries. If initial investment in two or more assisted areas; maximum aid intensity the one applicable in</li></ul>	
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the assisted area with the highest eligible costs. In areas under Article 107(3)(c); this provision applies to large undertakings only if initial investment concerns a new economic activity (§15)	
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ARTICLE 15 REGIONAL OPERATING AID	COMPLIANCE CHECK (OK?)
Compatible and exempted from notification if General compatibility conditions and conditions of this Article apply (§1)	
<b>Eligible regions</b>	
<b>Only in outermost regions and sparsely populated areas</b> (as in regional aid map for 2014-2020) (§1)	
<b>Eligible costs</b>	
<p><b>Shall compensate for (§2):</b></p> <p>(a) <b>Additional transport costs</b> of goods produced or further processed in the eligible areas</p> <ul style="list-style-type: none"> <li>(i) Beneficiaries with production activities in these areas</li> <li>(ii) Aid objectively quantifiable in advance (e.g. fixed sum, per tonne/kilometre ratio)</li> <li>(iii) Lowest transport costs inside the MS concerned (transport costs outside the MS may be included for outermost regions together with further process of goods)</li> </ul> <p>(b) <b>Additional operating costs</b> incurred in outermost regions as a direct effect of one or several of the permanent handicaps (Article 349 of the Treaty) (§3)</p> <ul style="list-style-type: none"> <li>(i) beneficiaries have their economic activity in the area</li> <li>(ii) the annual aid amount per beneficiary under all operating aid schemes does not exceed:</li> </ul>	

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<ul style="list-style-type: none"> <li>○ 15 % of the gross value added annually created by the beneficiary in the outermost region concerned; or</li> <li>○ 25 % of the annual labour costs incurred by the beneficiary in the outermost region concerned; or</li> <li>○ 10 % of the annual turnover of the beneficiary realised in the outermost region concerned.</li> </ul>	
<p><b>Aid intensity not more than 100 % (§3)</b></p>	

<p style="text-align: center;"><b>ARTICLE 16</b> <b>REGIONAL URBAN DEVELOPMENT AID</b></p>	<p style="text-align: center;"><b>COMPLIANCE CHECK (OK?)</b></p>
<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>● <b>Criteria to be fulfilled for urban development projects (§2)</b> <ul style="list-style-type: none"> <li>- implemented via urban development funds in assisted areas</li> <li>- co-financed by the European Structural and Investment Funds</li> <li>- support an ‘integrated sustainable urban development strategy’</li> </ul> </li> <li>● <b>total investment shall not exceed</b> EUR 20 million (§3)</li> <li>● <b>costs eligible if they comply</b> with Articles 65 and 37 of Regulation (EU) No 1303/2013 (§4)</li> <li>● <b>form of aid:</b> equity, quasi-equity, loans, guarantees, or a mix thereof (§5)</li> <li>● <b>leverage of additional investment from private</b> investors; funds or project; minimum 30 % of the total financing provided to an urban development project (§6)</li> <li>● <b>Investors;</b> cash or an in-kind (at market value) contribution or a combination of those (§7)</li> <li>● <b>Conditions for Urban development measures</b>(§8)</li> </ul>	

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<ul style="list-style-type: none"><li>(a) fund managers; open, transparent and non-discriminatory call; no discrimination on establishment or incorporation; may be required to fulfil predefined criteria</li><li>(b) independent private investors; open, transparent and non-discriminatory call; appropriate risk-reward sharing arrangements; asymmetric profit-sharing over downside protection. If not, fair rate of return to be established by an independent expert selected (open, transparent and non-discriminatory call)</li><li>(c) if asymmetric loss-sharing; first loss assumed by the public investor capped at 25 % of the total investment</li><li>(d) guarantee rate to private investors in urban development projects limited to 80 %; total losses assumed by a Member State capped at 25 % of the underlying guaranteed portfolio</li><li>(e) investors allowed to be represented in the governance bodies of the urban development fund</li><li>(f) urban development fund established according to the applicable laws; diligent process ensuring a commercially sound investment implementation strategy</li><li>• <b>Urban development funds managed on a commercial basis;</b> ensure profit-driven financing This is the case when (§9):<ul style="list-style-type: none"><li>(a) managers' legal or contract obligation to act with professionalism; no conflicts of interest; best practices and regulatory supervision;</li><li>(b) managers' remuneration conform to market practices; selection through open, transparent and non-discriminatory call; objective selection criteria;</li><li>(c) managers' remuneration linked to performance, or they co-invest</li><li>(d) managers set out investment strategy, criteria and timing of investment; <i>ex ante</i> financial viability and expected impact on urban</li></ul></li></ul>	
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<p>development;</p> <p>(e) clear and realistic exit strategy for each equity and quasi-equity investment.</p> <ul style="list-style-type: none"><li>• <b>Urban development fund providing loans or guarantees to urban development projects; Conditions (§10)</b><ul style="list-style-type: none"><li>(a) loans; nominal amount taken into account for maximum investment not exceeding the limit of EUR 20 million see §3;</li><li>(b) guarantees; nominal amount of the underlying loan taken into account for maximum investment not exceeding the limit of EUR 20 million see §3</li></ul></li><li>• The Member State may assign the implementation of the urban development aid measure to an entrusted entity (§11)</li></ul>	
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