State aid legal framework for 2014

JASPERS Networking Platform
State Aid Legal Framework for the 2014-2020 programming period

8 July 2014

Alessandra Forzano
DG Competition
SAM means

- Radical shift of State aid control from the Commission to the Member States through significantly enlarged and simplified GBER
- Shift from *ex ante* to *ex post*
Current situation

Aid amounts

- 55%
- 32%
- 13%

Aid measures

- 63%
- 23%
- 14%

Source: 2012 scoreboard (year 2011)
Extend

- Between 2014 and 2020, it is estimated that 66% of aid amounts and 75% of aid measures are likely to be exempted under the new GBER.

**Aid amounts**
- 35% Current GBER
- 32% New GBER ("delta")
- 23% Still under schemes
- 10% Still individually notified

**Aid measures**
- 58% Current GBER
- 15% New GBER ("delta")
- 14% Still under schemes
- 13% Still individually notified

*Data: analysis based on aid amounts awarded in 2012, aid measures notified/block-exempted in 2012*
Future

**Small % of aid** under the control of the Commission with stricter conditions

**Large proportion of aid** under the control and responsibility of the Member States (enlarged and simplified GBER)
Future

Small % of aid under the control of the Commission with stricter conditions

Large proportion of aid under the control and responsibility of the Member States (enlarged and simplified GBER)

Avoiding shipwrecks

Ex post: transparency evaluation monitoring
New interaction with Member States

This requires new working methods

Creation of a network of country contacts

1. To ensure state aid control in the structural funds for 2014-2020
2. To facilitate, channel, smoothen the communication
3. To monitor case portfolio of individual MS, identify priority cases and (possible) structural problems;
4. To identify training needs in MS and help organize them
5. To provide input for the country specific recommendations in the context of EU semester
State Aid Modernization (SAM)
Key Objectives

• "More with less"

• Simplification and better targeting of aid measures

• Clarification of rules and procedural improvement
Building blocks

Notice on the notion of aid

Review of *de minimis* Regulation

New Enabling Regulation
New General Block Exemption Regulation (GBER)

Coordinated approach for the review of major guidelines: regional, environmental, risk capital, R&D&I, broadband

Reform of the Procedural Regulation

New rules for rescue and restructuring aid (for banks and industrial companies)

**Across instruments**

- Clarification & simplification
- consistency: common principles
- increased commitment from Member States
SAM is into force since few days

**Adopted**

**Regulations**
- Procedural Reg.
- Enabling Reg.
- De Minimis
- GBER

**Guidelines**
- Broadband
- Regional Aid
- Short Term export Credit
- Cinema
- Risk finance
- Aviation
- Energy & Environment
- R&D&I
- IPCEI

**Other notices**
- Evaluation
- Transparency

---

*Entry into force of most rules on 1st July 2014 → implementation phase*

---

**Remaining**

- Notion of Aid
- Rescue & Restructuring
- Implementing Reg.
SAM's impact for Member States

- A new 'partnership' approach: major role for MS in the post-SAM context:
  - More responsibility in the design and the implementation of schemes (more active use of block-exemptions)
  - Need to ensure efficient controls at national level, including through appropriate institutional set-up (many MS are stepping up their efforts in this area).
  - Training and dissemination of information is key

- The success of SAM will depend on what MS will do with the new opportunities:
  - Increased use of block-exemptions depends on Member States' policy choices: the Commission can however help in the process
  - "Softer" proposals (best practices) can also be promoted
Lighter procedure

*De minimis* Regulation

and

Block exemption regulation

Notification

Guidelines

Framework

Notices
**GBER and *de minimis* (extension of scope)**

- **Exemptions area**
  - **GBER extension**
    - (notification and intensity threshold)
  - **Exemptions area**
    - **GBER extension**
      - (new types and categories)
  - **De minimis**

- **GBER extension**
  - • **Notified aid**
  - • **Block-exempted aid**
  - • **De minimis aid**
De Minimis Regulation n. 1407/2013

Main features:

• 'safe harbours' for aid in the form of guarantees and loans

• clarification of the conditions of cumulation

• clarification on the concept of 'undertaking'

• automatic criteria for the notion of 'undertaking in difficulty'
General Block Exemption
Regulation N° 651/2014

• Simplification of rules
  - Simpler check of incentive effect
  - Simpler proportionality check
  - Revised definition of firms in difficulty
  - Increased transparency
  - Evaluation of large systems

• Extension of the scope
  - Notification thresholds / aid intensities
  - New categories of exempted aid measures
Safeguards

- Transparency
- Evaluation
- Monitoring
Transparency

• Publication of information on a Member State / regional website

• Information on each scheme as well as individual aid awards over €500,000 (special rules for tax schemes)

• Information must be published within 6 months from the date the aid was granted (for tax schemes - within 1 year from the date declaration is due)
Evaluation: 'Closing' the SA cycle

Objective of **ex-post evaluation** of (large) aid schemes:

- Is the scheme effective in achieving the direct objective for which it was introduced?
- Does the scheme provide for indirect effects on the objective of interest (e.g. spill-over)?
- What are the negative indirect effects of the scheme, in particular the potential aggregated effect of large schemes on competition and trade?

"What you cannot measure, you cannot improve"
Lord Kelvin
Evaluation

Concerns aid schemes in some aid categories (regional, SMEs, R&D&I, environment and broadband), with an annual budget over €150 million

*Simulations: approx. 10-15 schemes/year*

These schemes are covered by the GBER for an initial period of 6 months

Can be extended by the Commission upon approval on an evaluation plan (describing e.g. scope of evaluation, result indicators, methods and timeline)
Monitoring of block exempted schemes

Monitoring of approved and block exempted schemes: problems in 1/3rd of monitored schemes, of varying types and gravity:

- Problems in the individual awards: e.g. aid beyond the maximum permissible aid (excess aid to some companies)

- Problems regarding the national legal basis of a scheme: e.g. omission of one of the applicable compatibility conditions (thereby casting doubts as to whether it is actually enforced)

- Significant modification of schemes or omission to adapt certain schemes to subsequently issued rules (contrary to MS commitments under the "appropriate measures procedure")

- Systematic misapplication of certain rules (e.g. lack of check of incentive effect)
Rethinking State Aid enforcement

How to preserve the balance?
- More responsibility for MS (support by Network of the Country Coordinators)
- More focus on large, potentially more distortive cases
- Shifting from an ex-ante scrutiny towards ex-post control
- The monitoring exercise of 2011/2012 identified several deficiencies

1. Increased transparency: full recipient disclosure, peer pressure

2. More ex-post control
   - Enhanced monitoring: proper implementation and compliance with the legal provisions
   - Evaluation of (large) aid schemes: ensure efficiency and cater undue negative impacts
Thank you for your attention

Link to the EU Commission website (news and speeches about SAM):

For info or further questions on this presentation, or on the activities of the JASPERS Networking Platform please contact:

Massimo Marra  
JASPERS Networking Platform Senior Officer  
ph: +352 4379 85007  
  m.marra@eib.org

www.jaspersnetwork.org  
jaspersnetwork@eib.org