

**REGULATION**  
**on state aid granted to small and medium-sized enterprises**

This Regulation transposes art.1 Para (2), Para (3)-c), sub point (i), (ii), Para (6) Para (1)- c); art.6 Para( 1)-(c), (d); art.7 Para (2), Para (3); art.26; art.27; art.28 points (4), (5), (6); art.29 Para (2)-(4), (6)-(8) from the Regulation (EC) No 800/2008 of Commission of 6 August 2008 on declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), published in Official Journal of the European Union L214 of 9 August 2008; transposes partially Community Guidelines on state aid to promote risk capital investments in small and medium-sized enterprises, published in Official Journal of the European Union L C 194 of 18 August 2006, Annex I, Part III.1 and Annex I, Part III.11, Annex I, Part III.1 point 1 (sub points 1.1., 1.2.), point 3, points 6-8 of the Regulation (EC) NO794/2004 of Commission of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, published in Official Journal of the European Union L140 of 30 April 2004.

**Section 1**

**General provisions**

1. State aid granted to small and medium-sized enterprises (hereinafter - SME ) can be considered compatible with a normal competitive environment, in accordance with Article 5 Para ( 1) c ) of Law No. 139 of 15 June 2012 on State aid
2. The support measures for SME are regulated by the Law No206 of 7 July 2006 on the support of sector of small and medium-sized enterprises.
3. The SMEs are eligible for all categories allowed under Law No. 139 of 15 June 2012 on State aid and in those categories of state aid measures which may be granted to large enterprises, SMEs benefit from more favorable conditions established by regulations adopted in accordance with Article 5 of Law No. 139 of 15 June 2012 on State aid.
- 4.. This Regulation lays down the conditions which must be met for state aid granted to promote investment in SMEs, consultancy and participation in fairs to be considered compatible with a normal competitive environment, and establish special form of notification of state aid to small and medium, stipulated in the Annex to this Regulation.
5. State aid granted to SMEs for achieving public interest objectives is clearly defined. Suppliers and / or initiators, in proportion to the risks of market failures, determine the size of state aid or difficulties that must be overcome for SMEs. In

order to obtain state aid SMEs must submit to supplier business plan and other supporting documents in which are planned expenses that will be incurred

6. Taking into account the differences between micro, small and medium enterprises, suppliers and / or initiators of state aid must establish basic different aid intensities for each of these types of enterprises.

## **Section 2**

### **Exceptions**

7. This Regulation is applied for the small and medium-sized enterprises of all economic spheres, except the aid intended for:

a) activities, namely aid directly linked to export quantities , the establishment and operation of a distribution network or to other current expenditure linked to the export activity ;

b) which are favoring domestic over imported products;

c) which are favoring activities link to agricultural primary products business;

d) promote activities in the processing and marketing of agricultural products when the aid is determined on the basis of the price or quantity of such products purchased from primary producers or sold by the enterprises concerned, or when the aid is conditional on the being partly or entirely passed on to primary producers

8. State aids for SME cannot be granted to the undertakings in difficulty.

## **Section 3**

### **Definitions**

9. In the meaning of this Regulation, the definitions will have the following meaning:

**The small and medium-sized enterprises** – enterprises are defined under Law No206 of 7 July 2006 on the support of sector of small and medium-sized enterprises;

**Fairs** –activities for establishing and developing national and international economic relations in order to popularize the results in economy , science , technology and culture , made in the form of fair , fair , exhibition and so on ;

**initial capital** –financing carried out to study, assess and develop an initial concept phase before launch

**start-up capital** - funding for product development and initial marketing businesses that have not sold their product or service commercially and are not yet generating a profit;

**expansion capital** - financing provided for the growth and expansion of a company that may or may not be break even or trade profitably in order to increase production capacity, development of a market or a product or providing additional working capital

**exit strategy** - strategy for the liquidation of holdings owned by an investment fund in unlisted companies , in accordance with a plan to achieve maximum return including trade sale , sale to a financial institution and sale by public offering , etc.

## **Section 4**

### **The Conditions of state aid granting to SME for consultancy and their participation on fairs**

**10.** State Aid for consultancy in favor of SMEs is permitted if the following conditions are met :

- a) The aid intensity shall not exceed 50 % of eligible costs ;
- b ) Eligible costs must be related to services provided by outside consultants .

**11.** Consultancy services for SMEs should not be a continuous or periodic activity nor not linked to the enterprise's usual operating costs such as tax consultancy services, regular legal services or the advertising

**12.** Eligible costs for consulting services are:

- a) expenses for consulting services incurred in developing the business plan, technical project , market studies and other expenses necessary to prepare the grant application ;
- b ) expenses for consulting services in project management and expenses incurred in the procurement process;
- c) expenses for audit services.

**13.** State aid to SMEs for participation in fairs is allowed if the following conditions are met :

- a) aid intensity does not exceed 50 % of eligible costs ;
- b ) Eligible costs must be costs incurred for renting, setting up and running the stand for the first participation of an undertaking in any fair .

**14.** State aid schemes or individual aid granted to SMEs for consultancy or fairs may have a distorting effect on the competitive environment marked if they exceed 3000000 lei, per the enterprise, per the project.

## **Section 5**

### **The state aid granting for the promotion of investments to SME through the investments fund or othe investment company**

**15.** In order to promote investment in SMEs with high growth rate, which does not have sufficient access to capital markets, are permissible state aid for investment funds or investment companies and SME investments.

**16.** Compatibility criteria for State aid measures to SMEs through investment funds or investment companies are:

- a) the maximum investment tranches shall not exceed 3 million to help the beneficiary SME for each period of 12 months;
- b ) the extent of the aid must be limited to the provision of funding for early stage , start-ups and expansion stage;
- c ) mandatory participation of private investors , at least 30 % of the funding ;
- d) a profit orientation of investment decisions;
- e) management on a commercial basis

**17.** To ensure that the measure is profit- oriented, the following conditions must be met :

- a) a business plan for each investment must include details of product, sales and profitability and establishing the ex ante viability of the project, and
- b) a clear and realistic exit strategy for each investment.

**18.** To ensure that investment funds or investment companies are managed on a commercial basis, the following conditions must be met :

a) a contract which states that the CIU manager's remuneration in securities is linked to performance and setting objectives and timing of investments;

b) private investors are represented in decision-making;

c ) management of funds is conducted in accordance with best practice and is subject to vigilant supervision .

**19.** The size of state aid is determined by providers and / or initiators made in proportion to the risks of market failures or difficulties that must be overcome for SME.

**20.** Where capital granted to SMEs through investment funds or investment companies is used to finance initial investment or other costs eligible for aid under other legislation adopted under Article 5 of Law No. 139 of June 15, 2012 on state aid, the relevant aid ceilings or maximum eligible costs will be reduced by 20 % during the first three years of the first investment and up to the total amount received. This reduction does not apply to aid intensities provided for research, development and innovation.

## **Section 6**

### **Amount appreciation and cumulation of state aid for small and medium-sized enterprises**

**21.** Appreciation amount of state aid granted to SMEs is made in accordance with the provisions of Section 10 of the Regulation on the notification form , the procedure for examining and adopting decisions on state aid.

**22.** Aid payable in several installments shall be discounted to its value at the time of grant.

**23.** State aid covered by this Regulation may be evaluated in cumulation with any aid provided by Law No. 139 of 15 June 2012 on State aid to the extent that they concern different identifiable eligible costs.

**24.** State aid under this Regulation shall not be cumulated with any other aid or other funding involving the same eligible costs if such cumulation would result in aid intensity higher than that provided for in this Regulation.

## **Section 7**

### **Compatibility, transparency and monitoring of the state aid granted to small and medium-sized enterprises**

**25.** State aid measures for SMEs that do not meet the compatibility criteria laid down in this Regulation shall be assessed in accordance with Section 11 of the Regulation on the notification form, the procedure for examining and taking decisions on state aid.

**26.** Transparency and monitoring of state aids shall be in accordance with the conditions and criteria set by Law No. 139 of 15 June 2012 on State aid and the Regulation on the notification form, the examination procedure and decision-making on aid state .

This form should be used for the notification of any aid, which is subject to assessment in accordance with the Regulation on State aid to small and medium-sized enterprises.

**1. Which type of individual aid or scheme is subject individual aid or scheme?**

1.1.  consulting and other services and activities, including participation in fairs

1.2.  investment aid

**2. Aid for consultancy and other services**

2.1. Eligible costs are limited to:

costs for services provided by outside consultants and other service providers?

Confirm that these services are not continuous or periodic activity that is not related to the enterprise's usual operating expenditure, as well as regular services tax consulting, legal or advertising .....

costs of enterprise participation in fairs? Specify whether the aid is linked to the extra costs of renting, installing and running the stand: .....

Participation is limited to the first participation in a fair? (please tick)

	YES		NU	
	<input type="checkbox"/>		<input type="checkbox"/>	

other costs (especially cases where aid is granted directly to the supplier / service provider or consultant / consultants)?

Specify under what conditions: .....

2.2. Specify the maximum aid intensity in gross: If the aid intensity exceeding 50% gross, specify in detail what is needed such aid intensity: .....

2.3. Specify the maximum aggregate Aid: .....

**3. Investment aid to SMEs through investment funds or investment companies**

3.1. The beneficiary who is / are the beneficiary / beneficiaries of the scheme (tick one or more boxes as appropriate):

3.1.1.  investors setting up a fund or contribute capital in an enterprise or a group of companies. Specify selection criteria: .....

3.1.2.  investment fund or investment company. Specify selection criteria:

..... 3.1.3.  enterprise in which the investment is made. Specify selection criteria: .....

3.2. Form of aid

3.2.1. The scheme provides the following / following measure / measures and / or instrument / instruments (tick one or more boxes as appropriate):

up an investment fund to which public authorities are a partner, investor or participant.

Specify: .....

subsidies to an investment fund to cover part of the administrative costs and its management.

Specify: .....

guarantees for investors or investment funds for some of the losses from investments or guarantees for loans to investors or investment funds.

Specify: .....

other financial instruments to investors or investment funds to provide extra capital for investment. Specify: .....

tax incentives for investors to invest. Specify: .....

other.

Specify:.....

3.2.2. Combination of measures and / or instruments referred to above shall not result in the provision of capital by a company or by companies in which investments have been made only in the form of loans (including subordinated loans and loans participatory) or other instruments which provide the investor / creditor fixed minimum return. Specify: .....

**3.3. Existence of a market failure.**

3.3.1 Maximum tranche of funding for targeted enterprises financed under the scheme for the enterprise than 3 million for each 12-month period: (please tick)

YES		NU	

3.3.2.  If the maximum tranche of funding for targeted enterprises financed under the scheme exceeds the above thresholds, the scheme must be justified by the presence of market failure in the / relevant area (s) for investment. Specify presenting evidence of this deficiency:

.....

**3.4. Main characteristics of the aid.**

3.4.1 Funds are used exclusively or mainly to finance investments in:

- micro or small enterprises;
- medium enterprise establishment or other initial stages;
- medium-sized enterprises in other stages than the setting, or other early stages, there is a firm limit to the total funding through the measure. Specify: .....

3.4.2. The scheme is based on the deficiency of capital market and provides capital to businesses.

Specify if: .....

3.4.3. Investment decisions are motivated by making a profit and there is a relation between the results of investment and remuneration of those responsible for investment decisions, demonstrated the following:  all capital invested in the undertakings concerned is allocated to investors operating under the market economy or

investors operating in a market economy are significantly involved in the undertakings concerned. Specify: .....

3.4.3.1. For investment funds that investment decisions are motivated by making a profit is shown by the following (please tick one or more boxes as appropriate):

- at least 30% of the fund's capital is provided by private investors
- other factors justifying a different level of private capital. Describe: .....
- There is an agreement between a professional fund manager and participants in the fund which provides that remuneration is linked to the results of the Fund Manager and sets clear objectives and timing of investment fund;
- private investors are represented in the decision making in the management;
- fund applies best practices and regulatory oversight.

3.4.4. Distortion of competition between investors and between investment funds is minimized, as demonstrated by the following:

- a bidding preferential setting for private investors;  in the case of an investment fund, to launch a public invitation to investors;
- in If a scheme (for example, a guarantee scheme), it remains open to newcomers?

3.4.5. Each investment is based on the existence of a detailed business plan to establish the viability of each project.

3.4.6. The scheme provides an exit mechanism; clear. Specify: .....

3.4.7. The possibility to recycle funds into the scheme?

3.4.8. Sector focus. Undertakings concerned are active only in certain economic sectors.

Specify the sector / sectors and the logic of trade policy and public interest objectives which takes into account the sector focus: .....

**4. Need of aid** (please tick)

YES		NU	
<input type="checkbox"/>		<input type="checkbox"/>	

4.1. Aid provides that any application for aid must be submitted before work is started on the project? (please tick)

YES		NU	
<input type="checkbox"/>		<input type="checkbox"/>	

4.2. If the supplier shall not adopt the legal provisions establishing a right for aid in accordance with objective criteria and without further exercise of a discretionary power of the state?

**5. Other Information**

Please indicate any other information you consider relevant to the assessment of the measure / measures in question in accordance with this Regulation.