*PART III.3.B*

Supplementary information sheet on aid for restructuring non-financial undertakings in difficulty: individual aid

*This supplementary information sheet must be filled in for the notification of individual restructuring aid covered by the Authority´s Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty*[[1]](#footnote-1)*(“Guidelines”).*

1. Eligibility

1.1. Undertaking in difficulty

A) Is the undertaking a limited liability company[[2]](#footnote-2), where more than half of its subscribed share capital has disappeared as a result of accumulated losses[[3]](#footnote-3)?

|  |  |
| --- | --- |
| yes | no |

B) Is the undertaking a company where at least some members have unlimited liability for the debt of the company[[4]](#footnote-4), and where more than half of its capital listed in the company accounts has disappeared as a result of accumulated losses?

|  |  |
| --- | --- |
| yes | no |

C) Is the undertaking subject to collective insolvency proceedings or does it fulfil the criteria under domestic law for being placed in collective insolvency proceedings at the request of its creditors?

|  |  |
| --- | --- |
| yes | no |

D) In the case of an undertaking that is not an SME:

1. has the undertaking's book debt to equity ratio been greater than 7,5 for the past two years

and

1. has the undertaking's EBITDA interest coverage ratio been below 1,0 for the past two years?

|  |  |
| --- | --- |
| yes | no |

E) If you have answered yes to any of the questions in points A to D, please substantiate the answer, including references in the answer to the supporting evidence or documents provided in annex (latest profit and loss account statements with balance sheets, or court decision opening collective insolvency proceedings on the company or evidence that the criteria for being placed under insolvency proceedings at the request of creditors under national company law are met, etc.).

1.2. Newly created undertaking or larger business group

A) When was the undertaking created?Click here to enter text.

B) Since when has the undertaking been operating?Click here to enter text.

C) Does the company belong to a larger business group?Click here to enter text.

|  |  |
| --- | --- |
| yes | no |

D) If yes, please submit full details about the group (organisation chart, showing the links between the group's members with details on capital and voting rights) and evidence that the company's difficulties are intrinsic and are not the result of an arbitrary allocation of costs within the group, and that the difficulties are too serious to be dealt with by the group itself.

1.3. Sectoral scope

Is the undertaking active in:

|  |  |  |
| --- | --- | --- |
| A) the coal sector[[5]](#footnote-5): | yes | no |
| B) the steel sector[[6]](#footnote-6): | yes | no |
| C) sectors covered by specific rules for financial institutions[[7]](#footnote-7): | yes | no |

1.4. SGEI provider:

A) Is the undertaking providing services of general economic interest?

|  |  |
| --- | --- |
| yes | no |

B) If the answer to point A is yes, please describe the service(s) of general economic interest and provide a copy of the entrustment act(s).

Click here to enter text.

C) If the answer to point A is yes, please indicate the amount of the public service compensation the undertaking is receiving, describe the methodology of calculation of compensation and provide the relevant legal basis establishing the methodology of calculation of the public service compensation.

Click here to enter text.

2. Compatibility with the internal market

2.1. Contribution to an objective of common interest:

A) Is the beneficiary located in a region or regions (at NUTS level 2) where the unemployment rate is one of the following:

1. higher than the Union average, persistent and accompanied by difficulty in creating new employment in the region or regions concerned
2. higher than the national average, persistent and accompanied by difficulty in creating new employment in the region(s) concerned.

|  |  |
| --- | --- |
| yes | no |

B) Is there a risk of disruption to an important service which is hard to replicate and it would be difficult for any competitor simply to step in (for example, a national infrastructure provider)?

|  |  |
| --- | --- |
| yes | no |

C) Does the undertaking have any important systemic role in a particular region or sector? Would its exit have any potential negative consequences (for example as a supplier of an important input)?

|  |  |
| --- | --- |
| yes | no |

D) Is there a risk of interruption to the continuity of provision of an SGEI?

|  |  |
| --- | --- |
| yes | no |

E) Would the failure or adverse incentives of credit markets push an otherwise viable undertaking into bankruptcy?

|  |  |
| --- | --- |
| yes | no |

F) Would the exit from the market of the undertaking concerned lead to an irremediable loss of important technical knowledge or expertise?

|  |  |
| --- | --- |
| yes | no |

G) Would the failure of the beneficiary involve any similar situation of severe hardship not listed above?

|  |  |
| --- | --- |
| yes | no |

H) If you have answered yes to any of the questions in points A to G, please fully substantiate the answer(s), including a reference to the further supporting evidence or documents provided in annex.

Click here to enter text.

2.2. Restructuring plan and return to long-term viability

Please provide the restructuring plan[[8]](#footnote-8) aiming at restoring the long-term viability[[9]](#footnote-9) of the beneficiary within a reasonable timescale together with a market survey and a sensitivity analysis identifying the driving parameters of the beneficiary's performance and the main risk factors going forward (please follow as much as possible the indicative restructuring plan set out in Annex II to the Guidelines).

3. Need for State intervention/incentive effect

3.1. Please provide a comparison between the measures set out in the restructuring plan and a credible alternative scenario not involving State aid[[10]](#footnote-10) demonstrating that in such an alternative scenario the relevant objective or objectives that you have identified in section 2.1 would not be attained, or would be attained to a lesser degree.

3.2. Please demonstrate that in the absence of the aid, the beneficiary would have been restructured, sold or wound up in a way that would not have achieved the objective of common interest identified in section 2.1.

4. Appropriateness

4.1. Please provide a short description of the State aid instruments chosen, including the form, amount and remuneration[[11]](#footnote-11):

Click here to enter text.

4.2. Please explain whether the problems of the beneficiary are caused by liquidity and/or solvency issues, or by both:

Click here to enter text.

4.3. Please demonstrate that the State aid instruments chosen are appropriate to address the problems identified in point 4.2 (that is to say liquidity or solvency issues).

Click here to enter text.

5. Proportionality of the aid/aid limited to the minimum

5.1. Own contribution

A) Does the own contribution of the beneficiary amount to at least 50 % of the restructuring costs[[12]](#footnote-12)?

|  |  |
| --- | --- |
| yes | no |

B) Please describe and quantify each category of restructuring costs to be incurred, provide for their total amount and indicate which percentage of the restructuring costs will be covered by the own contribution:

Click here to enter text.

C) Please describe and quantify the own contribution to the restructuring costs to be provided from the own resources of the beneficiary, its shareholders or creditors, or the business group to which it belongs, or from new investors:

Click here to enter text.

D) Please explain why you consider this own contribution to be real and aid-free:

Click here to enter text.

E) Please demonstrate that the own contribution is comparable to the aid granted in terms of effects on the solvency or liquidity position of the beneficiary[[13]](#footnote-13) and, if not, explain why, with reference, if appropriate, to supporting documents (e.g. balance sheet, cash flow statements):

Click here to enter text.

5.2. Burden-sharing

*To be completed if the State aid is granted in a form that enhances the beneficiary's equity position*[[14]](#footnote-14)

A) Have the beneficiary's losses been fully accounted for, attributed to and absorbed by existing shareholders and/or subordinated creditors?

|  |  |
| --- | --- |
| yes | no |

B) If the answer to point A is yes, please provide evidence, on the basis of an up-to-date analysis of the beneficiary's balance sheet situation.

Click here to enter text.

C) Will cash outflows from the beneficiary to holders of equity and/or subordinated debt be prevented during the restructuring period?

|  |  |
| --- | --- |
| yes | no |

D) If the answer to point C is no, please explain the reason(s).

Click here to enter text.

E) Will the State receive a reasonable share of the future gains in value of the beneficiary, in view of the amount of State equity injected in comparison with the remaining equity of the company after losses have been accounted for?

|  |  |
| --- | --- |
| yes | no |

F) If the answer to point E is yes, please substantiate the answer and provide evidence accordingly.

Click here to enter text.

G) If the beneficiary's losses are not absorbed in full (see point A above) and/or cash outflows from the beneficiary to holders of equity and/or subordinated debt are not prevented during the restructuring period (see point C above), please explain the reasons, in particular why full implementation of those conditions would lead to disproportionate results:

Click here to enter text.

H) Are senior debt holders contributing to restoring the beneficiary's equity position?

|  |  |
| --- | --- |
| yes | no |

I) If the answer to point H is yes, please explain in which way senior debt holders will contribute.

Click here to enter text.

6. Negative effects

6.1.“One time, last time” principle

Has the undertaking (or the group to which it belongs) already received any rescue aid, restructuring aid or temporary restructuring support[[15]](#footnote-15) and/or any non-notified aid?

|  |  |
| --- | --- |
| yes | no |

If yes, please provide full details (date, amount, reference to previous Authority decision if applicable, etc.)[[16]](#footnote-16):

Click here to enter text.

6.2. Measures to limit distortions of competition:

*Structural measures — divestments and reduction of business activities*

A) Please describe the divestments of assets, reduction of capacity or market presence committed to be undertaken. Please show that divestments, write-offs and closure of loss-making activities included in the commitments are not necessary to restore long-term viability of the beneficiary. Please indicate in addition the relevant markets in which those divestments will take place and their timing[[17]](#footnote-17). Please indicate as well whether the beneficiary will facilitate divestitures, for example through ring-fencing of activities and by agreeing not to solicit clients of the divested business.

Click here to enter text.

B) If structural measures exceptionally take the form of divestment of assets alone and do not involve the creation of a viable entity able to compete in the market, please demonstrate that no other form of structural measures would be feasible or that other structural measures would seriously jeopardise the economic viability of the undertaking:

Click here to enter text.

*Behavioural measures*

C) Does the beneficiary agree to refrain from acquiring shares in any company during the restructuring period, except where indispensable to ensure its long-term viability and subject, in that case, to notification to and approval by the Authority?

|  |  |
| --- | --- |
| yes | no |

D) Does the beneficiary agree to refrain from publicising State support as a competitive advantage when marketing its products and services?

|  |  |
| --- | --- |
| yes | no |

E) Are there any other behavioural measures foreseen?

|  |  |
| --- | --- |
| yes | no |

Click here to enter text.

*Market opening measures*

F) Will any measures be adopted by the national authorities or by the beneficiary with the aim of promoting more open, sound and competitive markets, for instance by favouring entry and exit[[18]](#footnote-18)?

|  |  |
| --- | --- |
| yes | no |

G) If the answer to point F is yes, please describe which measures and in which market, indicating how the measures are directly or indirectly linked to the beneficiary's activities:

Click here to enter text.

*Calibration of measures to limit distortions of competition*

H) Is any of the aid aimed at covering the social costs of restructuring[[19]](#footnote-19)?

|  |  |
| --- | --- |
| yes | no |

I) If the answer to point H is yes, please specify:

Click here to enter text.

Click here to enter text.

7. Other information

7.1. Please indicate here any other information you consider relevant for the assessment of the measure(s) concerned under the Guidelines (e.g. as regards measures to increase employability of redundant workers or assistance with finding new employment):

Click here to enter text.

1. The Authority´s Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, as adopted by Decision No 321/14/COL, published in OJ L 271, 16.10.2015 p. 35 and EEA Supplement No 62, 15.10.15. [↑](#footnote-ref-1)
2. This refers in particular to the types of company mentioned in Annex I to Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19), referred to at point 10f of Annex XXII to the EEA Agreement, see Joint Committee Decision No 293/2015 (not yet published) [↑](#footnote-ref-2)
3. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. [↑](#footnote-ref-3)
4. This refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU. of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19), referred to at point 10f of Annex XXII to the EEA Agreement, see Joint Committee Decision No 293/2015 (not yet published). [↑](#footnote-ref-4)
5. As defined in Decision 2010/787/EU. [↑](#footnote-ref-5)
6. As defined in Annex II to the Authority’s Guidelines on regional State aid for 2014-2020, as adopted by Decision [No 407/13/COL](http://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=uriserv:OJ.L_.2014.166.01.0044.01.ENG&toc=OJ:L:2014:166:TOC), published in OJ L 166, 5.6.2014, p. 44 and EEA Supplement No 33 on the same date. [↑](#footnote-ref-6)
7. See the Authority´s Guidelines on the application, from 1 December 2013, of the State aid rules to support measures in favour of banks in the context of the financial crisis (“2013 Banking Guidelines”), adopted by Decision No 464/13/COL, OJ L 264, 4.9.2014, p. 6-21 and EEA Supplement No 50 on the same date. [↑](#footnote-ref-7)
8. Restructuring may involve one or more of the following elements: the reorganisation and rationalisation of the beneficiary's activities to a more efficient basis, typically involving withdrawal from loss-making activities, restructuring of those existing activities that can be made competitive again and, possibly, diversification towards new and viable activities. It typically also involves financial restructuring in the form of capital injections by new or existing shareholders and debt reduction by existing creditors. [↑](#footnote-ref-8)
9. Long-term viability is achieved when an undertaking is able to provide an appropriate projected return on capital after having covered all its costs including depreciation and financial charges. The restructured undertaking should be able to compete in the marketplace on its own merits. [↑](#footnote-ref-9)
10. The alternative scenario may concern, for example: debt reorganisation, asset disposal, private capital raising, sale to a competitor or break-up, in each case either through entry into an insolvency or reorganisation procedure or otherwise. [↑](#footnote-ref-10)
11. Please also see point 56 of the Guidelines. [↑](#footnote-ref-11)
12. Please also see point 64 of the Guidelines. [↑](#footnote-ref-12)
13. For example, where the aid to be granted enhances the beneficiary's equity position, the own contribution should similarly include measures that are equity-enhancing, such as raising fresh equity from incumbent shareholders, the write-down of existing debt and capital notes or the conversion of existing debt to equity, or the raising of new external equity on market terms. [↑](#footnote-ref-13)
14. For example where the State provides grants, injects capital or writes off debt. [↑](#footnote-ref-14)
15. Including any such aid granted before the date on which the Authority began to apply the Guidelines, i.e. before 10.9.2014. [↑](#footnote-ref-15)
16. Please note that where less than 10 years have elapsed since the rescue aid or temporary restructuring support was granted or the restructuring period came to an end or implementation of the restructuring plan was halted (whichever occurred the latest), further rescue aid, restructuring aid or temporary restructuring support can only be granted: (a) where temporary restructuring support follows the granting of rescue aid as part of a single restructuring operation; (b) where restructuring aid follows the granting of rescue aid or temporary restructuring support as part of a single restructuring operation; (c) where rescue aid or temporary restructuring support has been granted in accordance with these guidelines and that aid was not followed by restructuring aid, if: (i) it could reasonably have been believed that the beneficiary would be viable in the long term when the aid pursuant to these guidelines was granted, and (ii) new rescue or restructuring aid or temporary restructuring support becomes necessary after at least five years due to unforeseeable circumstances for which the beneficiary is not responsible; (d) in exceptional and unforeseeable circumstances for which the beneficiary is not responsible. [↑](#footnote-ref-16)
17. Divestments to limit distortions of competition should take place without undue delay, taking into account the type of asset being divested and any obstacles to its disposal, and in any case within the duration of the restructuring plan. [↑](#footnote-ref-17)
18. This could in particular include measures to open up certain markets directly or indirectly linked to the beneficiary's activities to other EEA operators, in compliance with EEA law. Such initiatives may replace other measures to limit distortions of competition that would normally be required of the beneficiary. [↑](#footnote-ref-18)
19. Please see points 32 to 35 of the Guidelines for the types of measures covered by the notion of aid to cover the social costs of restructuring. [↑](#footnote-ref-19)