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COMMISSION STAFF WORKING DOCUMENT

**Explanatory note of the Commission services on the application of
State Aid Rules to national and regional funding schemes that offer alternative support
to SME Instrument project proposals with a Horizon 2020 'Seal of Excellence'**

Contents

- 1. Introduction..... 2
- 2. Rationale of the Seal of Excellence initiative 3
- 3. Suggested Steps for a ESI Fund Support Mechanism for Seal of Excellence Projects..... 4
- 4. Conclusion 7
- Annex 1. Detailed Explanations and Further Options 9
 - 1. Key Features of the Horizon 2020 SME instrument 9
 - 1.1 Evaluation in Horizon 2020 of the SME instrument proposals 10
 - 1.2 Horizon 2020 Grant procedure for SME Instrument proposals 12
 - 1.3 Assurances given by the Seal for SME instrument proposals 13
 - 2. Guidance on design of funding schemes and conditions in line with State Aid rules..... 15
 - 2.1 SME Instrument Phase 1 Seal of Excellence projects..... 15
 - 2.2. SME Instrument Phase 2 Seal of Excellence projects:..... 16
 - 2.3 Common issues for all Seal of Excellence projects..... 20
- Annex 2: Practical example 22

1. Introduction

This explanatory note is targeted at European Structural and Investment Fund (ESIF) managing authorities, the members of the Expert Group on ESIF (EGESIF), and other public national and regional funding bodies.

The purpose of the note is to explain in simple terms and in full respect of the General Block Exemption Regulation how to conceive public support schemes in a way that they can provide funding to outstanding SME innovation project proposals under the Horizon 2020 SME Instrument scheme that were awarded a "Seal of Excellence".

The Seal of Excellence is a quality label awarded by the European Commission to excellent research and innovation project proposals that were submitted and positively evaluated under Horizon 2020. Although these could not be funded due to insufficient Horizon 2020 budget, they have much potential to contribute significantly to economic development thanks to their innovative, cutting-edge nature. The Seal allows regions, Member States or any other funding bodies to easily identify these high quality proposals that have succeeded in the independent highly competitive evaluation at EU level, and offer alternative support to them.

This note responds to the request of the Council to provide further information about the state aid implications of the Seal of Excellence¹; the EP resolution on "Cohesion Policy and Research and Innovation Strategies for smart specialisation (RIS3)"² and the Community of Practice, set up by the Commission in 2015 and gathering on a voluntary basis Member States, regions and other funding bodies willing to set up 'Seal-friendly' support schemes.

The purpose of this note is to explain:

- the rationale of the Seal of Excellence initiative,
- the key features of Horizon 2020 SME instrument project proposals,
- the characteristics of projects warranted by the Seal, and which issues have to be verified by the national and regional funding bodies,

¹ See Council conclusions (9863/16) on "a more R&I friendly, smart and simple Cohesion Policy and the European Structural and Investment Funds more generally" of 24 June 2016

² European Parliament resolution of 13 September 2016 (2015/2278(INI))

- how national and regional funding bodies can align their funding conditions to the Horizon 2020 funding conditions, while respecting the General Block Exemption Regulation (No 651/2014) and the de minimis rules (No 1407/2013), i.e. without having to notify the support schemes,
- how this can be done with a minimum administrative burden for both funding authorities and SMEs.

2. Rationale of the Seal of Excellence initiative

The 'Seal of Excellence' initiative was officially launched by Commissioners Moedas and Crețu on 12 October 2015 as part of the follow-up on the mandate they received from President Juncker, "to maximise synergies between different funds" in order to enhance competitiveness, jobs and growth. The Seal of Excellence initiative is also the practical implementation of the Commission Declaration, issued when adopting the EU Framework Programme for Research and Innovation (Horizon 2020).³ Currently, project proposals under the "SME Instrument" scheme receive such a Seal if they have passed successfully the evaluation under the Horizon 2020, but could not be funded due to a lack of Horizon 2020 funding.

The purpose of the Seal of Excellence is twofold:

- to help SMEs in obtaining alternative funding for their project, so that their innovation idea can be implemented and contribute to knowledge-based societal and economic development, while limiting the administrative chores and speeding up the granting procedures when applying to another funding scheme as much as possible,⁴
- provide funding bodies interested in investing in SME innovation - including the Managing Authorities of ESI Funds - with high-quality project proposals, that conform with the Horizon 2020 standard of excellence.

To promote the Seal of Excellence initiative, DGs RTD and REGIO widely distributed a brochure explaining the Seal of Excellence⁵, organised or participated in over 100 conferences, meetings and events⁶ and set up a web-site and a "Community of Practice".⁷ Up to now 175 representatives of funding bodies in all 28 Member States have joined it, and exchange good practices on how to align their SME innovation project selection criteria, processes and funding conditions to the Horizon 2020

³ 2013/C 373/02. See <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013C1220%2801%29&from=EN>

⁴ Nota Bene: the 'Seal' does not constitute any right of the firm to receive alternative national or regional funding nor any right to get the same funding intensities, reporting, audit and accounting conditions as found in Horizon 2020.

⁵ https://ec.europa.eu/research/regions/pdf/seal_of_excellence_flyer_2015.pdf

⁶ For instance in the context of the Stairway to Excellence pilot project (<http://s3platform.jrc.ec.europa.eu/stairway-to-excellence>) or seminar on State aid in the management of the ESIF (http://ec.europa.eu/regional_policy/index.cfm/en/conferences/state-aid/rdi/)

⁷ <https://ec.europa.eu/research/regions/index.cfm?pg=soe>

SME Instrument project formats. An increasing number of national and regional funding schemes are currently offering support to project proposals with a Seal of Excellence and over 3000 SMEs have already received a Seal for project proposals⁸.

In order to tap into the full potential of the 'Seal of Excellence' initiative, Member States or regional authorities must be encouraged to support these high quality 'Seal' proposals at the same or similar funding intensity provided by Horizon 2020. They should be able to do it with the minimum administrative burden possible, both for the funding body and for the SME.

3. Suggested Steps for a ESI Fund Support Mechanism for Seal of Excellence Projects

Based on the ambitious evaluation system using international independent experts, the 'Seal' guarantees high quality standards for the underlying innovation project regarding excellence, impact and quality and efficiency of implementation, implying general merit to be supported by public funding. ESI Fund Managing Authorities that wish to offer SMEs with a Seal of Excellence in their area of responsibility a chance to implement their innovative idea, and thus to contribute to knowledge-based development, can do so in their usual roles and responsibilities of implementing ESIF programmes. Depending on the H2020 theme that the project proposal carrying the Seal of Excellence targets, one or the other ESI Fund could be the most appropriate alternative source of finance⁹. In a straightforward manner, Managing Authorities would not need to notify the support scheme for State Aid clearance or to change the operational programme, but consider to adapt implementation procedures/conditions in the following manner:

1. check the **availability of funding for SME innovation** under their ESI Fund programme and the relevance of the **specific objectives** of the concerned policy priority. In respect of the ERDF, except for a small number of regions with low ERDF allocations, this should not be a problem and no reprogramming would be necessary, even if the "description of the type and examples of actions" in the ERDF programme do not explicitly refer to the Seal of Excellence or the H2020 SME Instrument type of actions. Regarding the EAFRD, measures in support of cooperation projects (such as the European Innovation Partnership 'Agricultural Productivity and Sustainability') could be suitable programming vehicles.
2. check and if necessary adjust the "**selection criteria**" and **selection processes** to save administrative cost and time and benefit from the result of the independent evaluation of the project proposals that received a Seal, .e.g.
 - set up a permanently open selection process **exclusively open for SMEs with a Seal**¹⁰
 - **exempt proposals with a Seal from the re-evaluation of the quality of proposals** (accepting the positive result of the H2020 evaluation) under an open call for SME research and innovation projects,

⁸ https://ec.europa.eu/research/regions/index.cfm?pg=soe_who

⁹ The choice of ESI Fund is important when it comes to eligible beneficiaries or involved economic sectors.

¹⁰ There is however no guarantee for SMEs in a region to obtain Seals in the highly competitive H2020 calls: See distribution of Seals per region by mid-2016: https://ec.europa.eu/research/regions/images/map_soe-all_june2016.png

- **align the qualitative selection criteria to the H2020 system** of points for (1) impact, (2) excellence, and (3) quality and efficiency of implementation and give proposals with a Seal bonus points (see details in annex 1);
3. adjust so that in the application and selection process the **data/information is collected that is not guaranteed by the Seal, but necessary for ESI Fund support under the respective programming objective or measure**, i.e.:
 - The **location of the operation** in the ESIF programme area, or in line with the procedure and limits of Article 70(2) CPR, outside the programme area,¹¹
 - The contribution of the project to the relevant **specific objective** of the ESIF programme, and to a priority field in the relevant national / regional Smart Specialisation Strategy,
 - The **status of the applicant** and its classification as medium-sized or small firm in the sense of EU Recommendation 2003/361 (see GBER annex 1 and ABER annex 1¹²), as the firm size determines the maximum aid intensity,
 - the SME is **not an "undertaking in difficulty"**,
 - The **absence of double financing** for the same project,
 - All other applicable State aid rules are complied with, (see point 5 and annex 1),
 - The project implementation work has not started before the deadline for the relevant H2020 call and the start of the works has not occurred before the submission of the aid application by the beneficiary via the H2020 participant portal (otherwise there would be no "incentive effect" and the aid would not be compliant with State Aid rules).
 4. adjust the **type of actions and grant agreements** to those offered to "SME instrument" projects, , i.e.:
 - offer a lump-sum of EUR 50 000 to mature individual SME innovation ideas into feasible innovation projects with a business plan ("phase 1" of the SME Instrument) and/or
 - co-financing for R&I projects of individual SMEs (or small SME consortia) with a budget of around EUR 0.5 to 2.5 million ("phase 2" of the SME Instrument);
 5. adjust the **co-financing levels as well as all other conditions relevant for the compliance with the de minimis¹³ or GBER rules¹⁴**, and set up a system to collect the relevant data / information in the application process and in the report on the project implementation and the payment claim, e.g.:

¹¹ Common Provisions Regulation for the ESI Funds (No 1303/2013)

¹² General Block Exemption Regulation (GBER) Regulation (EU) No 1407/2013; Agricultural and Forestry Block Exemption Regulation (ABER) Regulation (EU) No 1408/2013.

¹³ *de minimis* rules based on Regulation No 1407/2013 are the main reference in this note, but for SMEs active in the primary production of agricultural products thresholds apply according to Regulation (EU) No 1408/2013 and for firms in the fisheries sector, Regulation (EC) 717/2014. It should furthermore be noted that State aid rules do not apply to agricultural activities (concerning both, primary production and processing and marketing of agricultural products) financed by the EAFRD, pursuant to Article 81 of Regulation No 1305/2013. The same applies to the fisheries and aquaculture sector, according to Article 8.2 of the EMFF.

¹⁴ Nota bene:, pursuant to Article 81 of Regulation No 1305/2013, State aid rules do not apply to agricultural activities (concerning both, primary production and processing and marketing of agricultural products) financed by the EAFRD. For the fisheries sector, the Fisheries Block exemption regulation (FIBER) Regulation (EU) No 1388/2014 applies.

- for **phase 1** type of projects a mechanism to ensure that a firm does **not receive more than EUR 200.000 of de minimis aid over a period of 3 years** (e.g. via a check in the "central de minimis register" of their country, or a declaration form to be filled in by the applicant SME),
 - for **phase 2** type of projects, the simplest approach is to apply the **maximum aid intensity allowed in GBER for "experimental development" type of activities**, because in an SME Instrument project this is generally the predominant category of actions. Besides those there might be "industrial research" type of activities, but for them the same aid intensities as for "experimental development" can be applied, as the latter are lower.¹⁵ To this a **"bonus" for small and medium-sized firms** may be added depending on their size class. In addition, a **"bonus" for the wide dissemination of the project results** can be added, as phase 2 projects awarded with a Seal include such dissemination. All bonuses included, this means the **maximum aid intensity for medium-sized firms would be 50% of the eligible cost and for small firms 60%**.^{16 17};
6. **adopt the direct cost categories** as used under H2020 and its **method of calculating indirect costs**, i.e.:
- **direct costs categories** eligible for funding can be personnel costs and cost of instruments and equipment, buildings and land for the project, cost of contractual research, knowledge and patents bought or licensed, and cost for materials. This is in line with Article 25(3) GBER¹⁸, with Article 69 CPR¹⁹ and, in the case of rural development, with Article 45 of Regulation1305/2013.
 - For the calculation of **indirect cost** (overheads and other operating expenses if they are incurred for the project) use a **flat-rate of 25%** of the direct cost in line with Article 68.1.(c) CPR, **excluding however, the cost for contractual research**.²⁰ In the case of rural development programmes, overheads and other operating expenses are only eligible within the scope of Article 45(2)(c) of Regulation1305/2013.

Further details on this approach and explanations on the H2020 "SME Instrument" and the relevant state aid and ESI Fund rules, can be found in annex 1.

¹⁵ Besides those there might be "industrial research" type of activities, but for them the same aid intensities as for "experimental development" can be applied, as the aid intensity levels for industrial research are lower than for experimental development.

¹⁶ If a Managing Authority wishes to fully use the GBER scope, it may raise the aid intensity by attributing the costs to the different R&I categories and apply to the cost in each category the respectively highest aid intensity (i.e. for industrial research type of activities small firms could receive 80% and medium-sized firms 75% of eligible cost, i.e. more than under H2020). This will, however, increase the complexity of the ERDF funding application and the book-keeping for the SME and also increase the risk of errors in the MA. See example in annex.

¹⁷ If the aid intensity exceeds the ESI Fund co-financing rate (maximum 50% for more developed regions), the gap can be filled by own national/regional funding.

¹⁸ Article 31(6) of ABER Regulation 702/2014

¹⁹ Purchase of land is unusual for H2020 projects, but in the unlikely case that it is part of the Seal project, the 10% limit in Article 69(3) b CPR needs to be respected.

²⁰ If a Managing Authority wishes to fully use the GBER scope, it may deviate from the H2020 funding conditions and include the cost of contract research in the calculation of the indirect cost.

Managing authorities that wish to go further in simplifying management of support for Seal projects and **alleviating the administrative burden** for SMEs, as well as address one of the biggest obstacles for innovation in SMEs - the access to finance -, could consider aligning ESI Fund support further to the H2020 approaches, and for instance:

- Provide a **40% pre-financing** to the SME within 6 weeks after the signature of the grant agreement ,
- Accept for the ESI Fund application process a copy of the application and evaluation summary report in **English** ,
- Introduce **similar fully electronic application and grant contract management** procedures, aligned to the 3 basic quality criteria of H2020 projects and copying as far as possible the application forms of H2020 for SME innovation, and its system of points for the award criteria (see annex 1),
- Use for the evaluation of ESI Fund innovation project proposals **independent experts as evaluators**, for instance by drawing on the H2020 database of evaluators,
- **Provide information on the H2020 SME Instrument** in the ESI Fund programme's web-site

They could also:

- Publicise in their web-site and via other communication tools (e.g. the local Enterprise Europe Network; National Rural Networks) the possibility to provide support to SME innovation projects with a Seal,
- Offer to SME innovation projects **in parallel to the financial support, coaching, networking and mentoring support**, as well as advice on how to access equity and venture capital, management of intellectual property rights, skills development etc.. This could for instance happen via the Enterprise Europe Network,,
- **Give visibility to "Seal of Excellence" SMEs and to the results of their R&I projects** both **internally** (e.g. in the monitoring committee, in universities, in meetings with business angels and banks, in events, like the Stairway to Excellence country events, meetings with local SMEs that receive H2020 funding) and **externally** (e.g. encourage and support their participation in international conferences, in technology brokerage events, "meet investors" events, competitions, H2020 InfoDays, in meetings of the relevant "Thematic Smart Specialisation Platforms", etc. and inform DG Regional and Urban Policy, DG Agriculture and Rural Development and DG Research and Innovation, as well as other concerned Directorate Generals, such as DG Communications Networks, Content and Technology, DG Energy and DG Environment, in view of publishing information in the InfoRegio and European Rural Development Network databases of projects, the Seal of Excellence web-site, etc.).

These additional actions are not only good for raising the number of SMEs that receive support thanks to the Seal of Excellence. These additional actions can be a **crucial element for improving innovation support systems**, in particular in less research and innovation intensive regions, and for helping to make the SME innovations a commercial success, thus generating jobs and growth.

If the existing SME support schemes or the above mentioned adjustments do not provide a sufficient base to achieve adequate access to funding for the SMEs awarded with a Seal of Excellence, the national / regional authorities might decide to set up a measure mirroring the SME instrument for

their area of responsibility. This measure may reflect the provisions of the relevant EU-regulations (most notably the provisions related to the SME Instrument in the H2020 rules for participation) but it would require State aid approval following notification to the Commission

4. Conclusion

- a) The 'Seal of Excellence' initiative is one of the key initiatives of the Commission to optimise synergies between research, innovation and cohesion policies, and between Horizon 2020 and the ESI Funds. Both the Council and the European Parliament expressed their support for it.
- b) The active participation of Managing Authorities in the Seal of Excellence initiative and in the "Community of Practice"²¹ set up by the Commission to exchange good practices and facilitate mutual learning - also with the different Commission services - is essential for success. Maximising the take-up of projects with Seals is crucial for significant impact. The result is increased investment in line with EU structural development objectives, and increased investment to improve EU research and innovation capacities.
- c) This important work is facilitated by this note, with emphasis on making the synergies as operational and straightforward as possible.

²¹ <https://ec.europa.eu/research/regions/index.cfm?pg=soe>

Annex 1. Detailed Explanations and Further Options

1. Key Features of the Horizon 2020 SME instrument

The Seal of Excellence has been firstly applied to the "SME Instrument" of Horizon 2020. This Horizon 2020 funding scheme fully dedicated to SMEs aims at providing staged and seamless support covering the whole innovation chain. The SME Instrument is targeted at all types of innovative SMEs showing a strong ambition to develop, grow and internationalise. It supports all types of innovation, including service, non-technological and social innovations; given each activity has a clear European added value. The aim is to develop and capitalise on the innovation potential of SMEs by filling the gap in funding for early stage high-risk research and innovation, stimulating innovations and increasing private-sector commercialisation of research results.

Supporting these project proposals is very much in line with the European Structural and Investment (ESI) Funds intervention logic, and can contribute to regional development via innovation-driven SME competitiveness. Unlike the majority of H2020 projects, SME Instrument projects are **small scale RDI projects, mostly run by a single company** (mono-beneficiary) or, in the few cases of multi-beneficiaries consortia, **by SMEs often located in the same region or member state**. The projects are mainly close to the market and have a clear potential for socio-economic impact at local level. This means the SME instrument projects are similar to the SME innovation support scope and objectives of many ERDF programmes. For this reason the 'Seal of Excellence' has been firstly applied to the SME instrument.

Depending on the results of this first test, Seals of Excellence may in the future be awarded to other types of H2020 project proposals that have beneficiaries principally in a single country or region and share similar objectives to ESI Fund programmes (e.g. Marie Skłodowska-Curie fellowships²², ERC "proof-of-concept" type of projects²³, "CleanSky2" mono-beneficiary proposals²⁴) and possibly few cases of multi-country projects that resemble INTERREG or urban projects.

Under the SME instrument, support is provided in three different phases:

- 1) PHASE 1: The **feasibility work** which - supported via a lump sum - will allow for an assessment of the technological and commercial potential of a project (proof of concept).

Types of activities typically included in a phase 1 project: Carrying out a feasibility study to verify the technological/practical as well as economic viability of an innovation idea/concept with considerable novelty to the industry sector in which it is presented (new products, processes, design, services and technologies or new market applications of existing technologies). The activities could, for example, comprise risk assessment, market study, user

²² <https://ec.europa.eu/programmes/horizon2020/en/h2020-section/marie-sklodowska-curie-actions>

²³ <https://erc.europa.eu/proof-concept>

²⁴ <http://www.cleansky.eu/content/page/synergies-structural-funds>

involvement, intellectual property management, innovation strategy development, partner search, feasibility of concept, and the like, to establish a solid high-potential innovation project aligned to the enterprise strategy and with a European dimension. Bottlenecks in the ability to increase profitability of the enterprise through innovation shall be detected and analysed during phase 1 and addressed during phase 2, to increase the return on investment in innovation activities.

The result of this phase should be a strategic business plan setting out the technical, organisational, financial and legal steps for the implementation of an innovative business project. This phase typically lasts for 6 months.

The PHASE 1 support is **not meant to support the proposal writing for Phase 2**. National / regional programmes taking up the Seal of Excellence should take account of this and verify that supported SMEs advance their business strategy and undertake activities checking investigating the feasibility of an innovation idea.

2) PHASE 2: The **implementation of the project**

Types of activities typically included in a phase 2 project: focus on activities such as industrial research, demonstration, testing, prototyping, pilot lines, scale-up studies, miniaturisation, design, performance verification, market replication and the like aiming to bring an innovation (product, process, service etc.) to **industrial readiness and maturity for market introduction**. This phase lasts on average for 12-24 of months.

3) PHASE 3: The support to **commercialisation** is provided to all beneficiaries of phase 1 and 2 by various measures to access overseas markets, business partnering within Europe including with large enterprises, access to investors for growth financing and strengthening the management capacities of the SMEs, for example on IPR management. In this phase, there is no direct EU funding for the SME.

Successful completion of Horizon 2020 funded phase 1 is no precondition for the application of an SME for phase 2. Phase 2 funding is allocated following an open competition to all SMEs, in other words SMEs that received, thanks to the Seal of Excellence, alternative funding from the ESI Funds or other sources under phase 1 will be treated on an equal footing for selection for phase 2 support under H2020.

However, only H2020 SME instrument beneficiaries (phase 1 or phase 2) can benefit from phase 3 support and no direct application for this is possible.

In addition, in parallel to the implementation of phase 1 and 2 projects, a coaching and mentoring scheme is provided exclusively to beneficiaries of the H2020 SME instrument funding. This aims to accelerate the impact of the funding by equipping the company with the skills and capacities for innovation-driven growth. The service is provided by specially-recruited business practitioners and will be accessible through the Enterprise Europe Network²⁵.

²⁵ <http://een.ec.europa.eu/content/support-packages-innovative-smes>

1.1 Evaluation in Horizon 2020 of the SME instrument proposals

As with all Horizon 2020 project proposals, SME instrument proposals are evaluated by international panels of independent external experts. There are 4 deadlines for project submission per year per phase. On average 2000 proposals for phase 1 and 800 for phase 2 are received and evaluated per cut-off. The proposals are evaluated against three standard criteria 1) impact, 2) excellence, and 3) quality and efficiency of implementation, and specific sub-criteria. The criteria are fully transparent and published in the Horizon 2020 Work-programmes²⁶.

For each criterion, the proposal is given a score of 0 to 5 according to the Horizon 2020 scoring system²⁷. In order to be considered for funding, the proposal must reach certain thresholds, as follows:

- For Phase 1 the threshold for individual criteria is 4 (out of maximum 5). The overall threshold, applying to the sum of the three individual scores, is 13 (out of maximum 15).
- For Phase 2 the threshold for the criterion 'Impact' is 4, and for the other criteria, it is 3. The overall threshold, applying to the sum of the three individual scores, is 12.²⁸
- To determine the final ranking of the proposals, the score for the criteria 'Impact' will be given a weight of 1.5.

The final score of a proposal is the mean of the individual scores of the individual evaluators. The experts will also give an opinion on the operational capacity of the company to implement the project and - only in phase 2 of the SME instrument - assess 'best value for money' of subcontracts.

Here below a short description of the main sub-criteria, mainly for Phase 2

a. Excellence

- Clarity and pertinence of the objectives; Credibility of the proposed approach;
- Soundness of the concept and credibility of the proposed methodology;
- Extent that the proposed work is beyond the state of the art, and demonstrates innovation potential (e.g. ground-breaking objectives, novel concepts and approaches, new products, services or business and organizational models).

²⁶ see Article 15 of the Horizon 2020 Rules for Participation Regulation No 1290/2013) and Annex D of the General Annexes to the Work programme

http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html#h2020-work-programmes-2016-17

²⁷ Interpretation of the scores

0 — The proposal fails to address the criterion or cannot be assessed due to missing or incomplete information.

1 — Poor. The criterion is inadequately addressed, or there are serious inherent weaknesses.

2 — Fair. The proposal broadly addresses the criterion, but there are significant weaknesses.

3 — Good. The proposal addresses the criterion well, but a number of shortcomings are present.

4 — Very Good. The proposal addresses the criterion very well, but a small number of shortcomings are present.

5 — Excellent. The proposal successfully addresses all relevant aspects of the criterion. Any shortcomings are minor.

²⁸ This threshold might be raised in the course of the H2020 midterm review.

- Appropriate consideration of interdisciplinary approaches and, where relevant, use of stakeholder knowledge.

b. Impact

- The extent to which the outputs of the project would contribute to each of the expected impacts mentioned in the work programme under the relevant topic;
 - Any substantial impacts not mentioned in the work programme, that would enhance innovation capacity, create new market opportunities, strengthen competitiveness and growth of companies, address issues related to climate change or the environment, or bring other important benefits for society;
 - Quality of the proposed measures to:
 - Exploit and disseminate the project results (including management of IPR), and to manage research data where relevant.²⁹
 - Communicate the project activities to different target audiences

c. Quality and efficiency of the implementation

- Quality and effectiveness of the work plan, including extent to which the resources (human, financial, technical, etc.) assigned to work packages are in line with their objectives and deliverables;
- Appropriateness of the management structures and procedures, including risk and innovation management;
- Complementarity of the participants and extent to which the consortium as whole brings together the necessary expertise (financial, technical, marketing, business management, etc.);
- Appropriateness of the allocation of tasks, ensuring that all participants have a valid role and adequate resources in the project to fulfil that role.
- For SME instrument phase 2: Best value for money of subcontracts is assessed.

ESI Fund rules allow either to adopt/adapt to the same 3 qualitative Horizon 2020 evaluation criteria as part of the innovation and competitiveness related project selection criteria, or to adopt specific selection criteria targeting exclusively proposals awarded with a Seal of Excellence. In many cases, these Horizon 2020 qualitative criteria are actually already in line with the specific objectives of the priority axis relevant for SME innovation support and would need to be complemented in calls and application forms only by a small number of additional eligibility criteria (see below). Adjustments of existing ESI Fund programmes' selection criteria with the objective of offering "Seal-friendly" support are encouraged.

1.2 Horizon 2020 Grant procedure for SME Instrument proposals

The Horizon2020 grant agreement for mono-beneficiaries under the SME Instrument foresees the following funding conditions:

Phase 1:

²⁹ In addition, the results of H2020 projects will be published on the CORDIS website; http://cordis.europa.eu/projects/home_en.html

Funding rate: Funding will be provided in the form of a lump sum of EUR 50 000 (per project, not per participating business). This can constitute a maximum of 70% of the total eligible costs of at least EUR 71 429 (see Commission Decision C(2013)8198 authorizing the reimbursement of cost under the form of a lump sum for SME instrument phase 1 actions under Horizon 2020).

Pre-financing: there will be an advance payment of EUR 17 500 within 30 days, either from the entry into force of the H2020 grant agreement³⁰ (see Article 58) or from 10 days before the starting date of the action (see Article 3), whichever is the latest. This is 40% of the lump sum of EUR 50 000, after deduction of 5% retained by a guarantee fund³¹. The remaining 32 500 will be paid to the beneficiary at the end of the project, after approval of the final report.

Phase 2:

Funding rate: 70% of eligible costs (exceptionally, 100% where the research component is strongly present). Usually in the order of EUR 500 000 to EUR 2.5 million, but could also be other amounts.

Pre-financing: About 40 % of the whole Phase 2 grant is paid within 30 days, either from the entry into force of the grant agreement or from 10 days before the starting date of the action³², whichever is the latest, out of which 5% is retained by the guarantee fund. However, financially weak companies with large grants are likely to see their pre-financing decreased and/or more reporting deadlines introduced. The balance will be paid to the beneficiary at the end of the project, after the approval of the reports.

1.3 Assurances given by the Seal for SME instrument proposals

The 'Seal of Excellence' is a certificate that is provided to each proposer individually in electronic form downloadable from the reserved area of the Participant Portal, once the evaluation results are communicated. The 'Seal' certificate indicates the title and proposal number, the legal name and legal address of the SME submitting the proposal, the topic of Horizon 2020 SME instrument under which the proposal was submitted, the date of submission, the main criteria against which it has been evaluated and, as of 2017, also the Technology Readiness (TRL³³) level reached by the activities described in the proposal for which the Horizon 2020 contribution is requested.

Due to confidentiality rules, the identities of the Seal recipients and the content of their proposals cannot be revealed by the Commission's services to any national or regional or private funding body. Only the recipient of a Seal may do so.

³⁰ Article 58 of the H2020 model grant agreements: the agreement will enter into force on the day of signature by the [Commission][Agency] or the coordinator, depending on which is later

³¹ Article 21.2 of the Model Grant Agreement

http://ec.europa.eu/research/participants/data/ref/h2020/mga/sme/h2020-mga-sme-1-mono_en.pdf

³² see Article 3 of the H2020 model grant agreements

³³ see definition of TRLs in part G of the General Annexes of the Horizon2020 Work Programme for 2016-17
http://ec.europa.eu/research/participants/data/ref/h2020/other/wp/2016-2017/annexes/h2020-wp1617-annex-ga_en.pdf

The 'Seal' certifies that the proposal has been evaluated as reaching the individual quality thresholds for each criterion and also the overall relevant quality threshold (currently 13 points for Phase 1 and 12 for Phase 2). The proposal is therefore considered of very good to excellent quality by Horizon 2020 standards.

However, it is to be noted that Horizon 2020 evaluation does NOT include and thus the **Seal provides no guarantee for the required (full) compliance with applicable State aid rules, including but not limited to:**

- the **SME status** of the recipient: the company needs to undergo merely an SME self-assessment before the application for the SME instrument, which is not verified by the evaluators.
- the **financial viability**, i.e. that the SME is not an "undertaking in difficulty"³⁴. Single applicants or participants are exempt from a financial viability check³⁵. For H2020 grants SMEs must formally declare that they have the financial capacity to carry out the proposed action, but the evaluators do not verify this.
- the **absence of double funding**: Proposals can be improved and then resubmitted to H2020 at later deadlines for the SME Instrument and can be at that moment be selected for funding. A Seal does thus not guarantee that the project has not been selected for H2020 funding under a later SME Instrument cut-off date.

These as well as all other applicable criteria for State aid compliance will have to be checked by the granting authorities.

Under H2020 these checks are performed by the Commission and relevant Executive Agencies only for projects selected for Horizon 2020 funding during the grant preparation and the full validation of the SME status is only performed through ex-post audits once the project received H2020 funding.

Also the link of a project to the smart specialisation priorities relevant for the country or region where it is located is not verified by H2020 evaluators, as this is not an eligibility criterion for H2020.

For ESI Funds co-financed schemes that aim to take-up project proposals with a "Seal of Excellence", a system needs to be set-up to ensure the additionally necessary checks of these and a small number of other issues that need to be respected to comply with state aid and with ESI Fund rules.

In the same way as for SME innovation project selection without a Seal of Excellence, Managing Authorities and intermediate bodies need to request for the ESI Fund project selection procedure additional information from the applicant SMEs on, inter alia:

- The **location** of the operation in the ESIF programme area,³⁶
- The **contribution of the project to the relevant specific objective** of the ESIF programme axis, and the conformity with the relevant national / regional Smart Specialisation Strategy³⁷,

³⁴ See definition in GBER Article 2(18)

³⁵ A financial viability assessment model is available in the Horizon2020 participants portal: <https://ec.europa.eu/research/participants/portal/desktop/en/organisations/lfv.html>

³⁶ Or a selection method in line with Article 70(2) of the ESIF Common Provisions Regulation (No 1303/2013) if operations are implemented outside the programme area but within the Union.

- The **SME status** of the applicant and its classification as medium-sized or small firm in the sense of EU Recommendation 2003/361³⁸ (see GBER annex 1).
- the SME is **not an "undertaking in difficulty"**³⁹
- The **absence of double financing** for the same project.

2. Guidance on design of funding schemes and conditions in line with State Aid rules

ESI Fund supported funding schemes under which projects with a Seal of Excellence should be eligible, might need alignments of the operational programme's selection criteria as described above. The present chapter explains the adjustments in the grant contracts under the ESI Funds to align the funding conditions as far as possible to the SME Instrument conditions while being in line with state aid rules.

All these adjustments should aim at **avoiding unnecessary additional administrative burden on SMEs** by limiting the possibly necessary modifications of the project proposals to

- a minimum of additional information (see under section 3.1.3) and
- modifications in the financial set-up (e.g. related to the calculation of flat-rates for overheads⁴⁰, or additional private financing to compensate for lower aid intensities etc.).
- As far as possible a new full evaluation of the substance of the project proposal should be avoided to save time both for the SME and the public administration (i.e. the elements that relate to its excellence, impact and quality and efficiency of the implementation that were already positively evaluated by the Horizon 2020 evaluators should not be evaluated a second time).

2.1 SME Instrument Phase 1 Seal of Excellence projects

There are several possibilities for funding Phase 1-type projects in full compliance with State aid rules and without need for a State aid notification:

(a) Compliance with de minimis rules

No State aid notification is necessary provided that the funding of the projects is in line with the **de minimis** Regulation 1407/2013. This requires, amongst other things, that the selection procedure set up by the Managing Authority respects the maximum amount of **EUR 200.000 of de minimis aid for a single undertaking over a period of 3 years**.

This could for instance be ensured by:

³⁷ <http://s3platform.jrc.ec.europa.eu/ris3faq>

³⁸ The SME definition is also included in the GBER as annex 1

³⁹ See definition in GBER Article 2(18)

⁴⁰ Horizon2020 excludes sub-contracted activities from the calculation for the overheads and gives 25% as flat-rate for indirect cost, whereas GBER allows to use the full direct cost of a project to calculate the overheads.

- a check by the Managing Authority for previously received aid for the SME via a "central de minimis register" of their country, or
- a declaration form to be filled in by the applicant SME providing complete information on de minimis aid received in the preceding 3 fiscal years.

(b) Compliance with the GBER

For aid above de minimis aid (or in case "de minimis" does not apply) no State aid notification is necessary if the funding complies with **all** the applicable rules of the GBER (General Block Exemption Regulation No. 651/2014), i.e. the common as well as specific provisions of the GBER.

For phase 1 projects the rules for aid for 'feasibility studies' in the sense of Art 2(87) GBER seem most appropriate, i.e. *"the evaluation and analysis of the potential of a project, which aims at supporting the process of decision-making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success."*

The maximum aid intensity (including "SME bonuses") is for medium-sized enterprises 60% of the cost of the study and for small enterprises 70% (see Article 25 (5) and (7) GBER).

However, also other provisions of the GBER such as those for regional aid or for SME support can possibly be relied on.

2.2. SME Instrument Phase 2 Seal of Excellence projects:

Aid for research and development as covered by Article 25 of the GBER is the most suitable State aid compatibility basis applicable to Phase 2 type of projects⁴¹ that would not need to be notified if the following is respected:

Measures implemented under Article 25 the GBER need to comply with common, as well as specific aid category provisions foreseen by Articles 1-9 and Article 25 of the GBER respectively. Common provisions, which are covered by Articles 1 to 9 of the GBER, include in particular, rules on the notification thresholds (maximum amounts that can be granted under the GBER; Article 4 – see below), cumulation (Article 8) and on the incentive effect (Article 6). These rules apply to Seals of Excellence projects in the way described below:

The following specific rules of Article 25 of the GBER have to be complied with:

- **Amounts need to stay below the notification thresholds:**

Individual aid to a beneficiary has to stay below the following amounts:

- EUR 20 million for predominantly⁴² industrial research per undertaking, per project;

⁴¹ Member States can also explore financing possibilities foreseen under other categories of aid for R&D&I covered by Chapter III, Section 4 of the GBER, including *Innovation aid and Aid for process and organisational innovation covered by Article 25 and Article 28 of the GBER respectively*.

- EUR 15 million for predominantly experimental development per undertaking per project;

The notification thresholds are not attained for phase 2 projects, as the SME Instrument projects rarely exceed a volume of EUR 2.5 million.

- **Determine the category of R&D activities in the project:**

Under Article 25 of the GBER, the project has to relate to either **fundamental research**, to **industrial research**, to **experimental development** (feasibility studies are not covered in phase 2), see definitions in Article 2 (84) – (87) GBER:

- *'**industrial research**' means the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of **prototypes in a laboratory environment** or in an **environment with simulated interfaces** to existing systems as well as of **pilot lines, when necessary for the industrial research** and notably for generic technology validation (Art 2(85) GBER)*
- *'**experimental development**' means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services;*

*Experimental development may comprise **prototyping, demonstrating, piloting, testing and validation** of new or improved products, processes or services **in environments representative of real life operating conditions** where the **primary objective is to make further technical improvements** on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes.*

Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements; (Art 2 (86)GBER)"

The types of activities typically included in a SME Instrument Phase 2 project are mostly between Technology Readiness Level (TRL) 6 – technology demonstrated in relevant environment, TRL 7 – system prototype demonstration in operational environment and TRL 8 – system complete and qualified, which are typically covered by the 'experimental development' category. For practical purposes, and unless it is shown that a different scale should be used in individual cases, the different TRL levels can be considered to correspond to the following TRLs: TRL 1 (fundamental research), TRL 2-4 (industrial research) and TRL 5-8 (experimental development).⁴³

Phase 2 projects will therefore normally consist entirely of experimental development activities (TRL 5-8). In some cases, industrial research activities (TRL 2-4) will also be part of the project. To simplify the calculation of the aid for such projects, the cost for industrial research activities does not

⁴² "Predominant" means in this context when more than 50% of the eligible cost is allocated to one specific category of research activities.

⁴³ See communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions, 'A European strategy for Key Enabling Technologies — A bridge to growth and jobs', COM(2012) 341 final of 26.6.2012.

need to be separated from the experimental development activities' cost to determine the aid intensity.

If a project includes activities in the sense of "innovation aid for SMEs" (such as patent related costs, costs relating to secondment of highly qualified personnel to the SME or costs for innovation advisory and support services) it could be considered to support those in line with Article 28 GBER. If process and organisational innovation activities are included, it could be considered to support those in line with Article 29 GBER.

- **Establish the maximum aid intensity/funding rate**

In line with the requirements set by Article 25 of the GBER, the Managing authority/intermediate body needs to ensure that the funding rate (aid intensity) for the phase 2 project does not exceed a set proportion of eligible costs attributed to a given category of a research activity.

The basic aid intensities for the categories of research activities typically included in phase 2 projects are as follows:

- *50% for industrial research, including construction of prototypes in a laboratory environment and small scale pilot lines necessary for the industrial research;*
- *25% for experimental development.*

The aid intensity for experimental development costs may be applied to the entire phase 2 project with a Seal of Excellence, even if it includes industrial research costs, as the aid intensity for experimental development is lower than for industrial research.

If the funding body wishes to apply the higher aid intensity for the costs related to industrial research activities, the weight of the different categories of research activities in the project's eligible costs needs to be determined and the aid intensities set separately for the costs for industrial research and for experimental development activities (e.g. one work package consists of industrial research activities and receives 50% aid for the eligible cost related to it; another work package consists of experimental development and receives 25% aid).

The **basic aid intensities can be topped up with an SME and a dissemination bonus**, while however never exceeding 80% of the eligible costs:

- The **SME -"bonus"** consists of 20 and 10 additional percentage points in aid intensity which can be granted to small and medium sized enterprises respectively. The Managing authority needs to ensure, however, that the size of the beneficiary has been verified on the basis of requirements set down in *Annex I – SME definition* of the GBER (see also above in section 2.2.).

- The **dissemination bonus** consists of a top-up of 15 additional percentage points and **can be applied automatically to phase 2 projects awarded with a Seal-of-Excellence**, as it is assumed that the beneficiary has already committed to widely disseminate the project's research results (in case of successful research) at the stage of applying for funding under the H2020 SME Instrument programme.

It is recommended that the Managing Authority cross-checks that the beneficiary has committed to widely disseminate research results through conferences, publication, open access repositories or free or open source software and puts in place a monitoring system allowing to verify that the beneficiary has fulfilled this commitment once the supported project has been completed.

A declaration of honour regarding the dissemination activities or requiring proof of dissemination activities together with the final payment claim could be means to implement this.

Summary table⁴⁴ for phase 2 type of projects:

<i>R&D projects</i>	<i>Notification threshold</i>	Aid intensities* <i>Small firms</i>	<i>Medium firms</i>
<i>Industrial research</i>	<i>EUR 20 million</i>	<i>80%</i>	<i>75%</i>
<i>Experimental development</i>	<i>EUR 15 million</i>	<i>60%</i>	<i>50%</i>

* includes the dissemination bonus applicable for RDI activities but excluded in the case of support for feasibility studies

- **Define the eligible costs**

Under Article 25(3) of the GBER costs categories eligible for funding can be:

(a) **personnel costs:** researchers, technicians and other supporting staff to the extent employed on the project;

(b) **costs of instruments and equipment** to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible.

(c) **Costs for of buildings and land, to the extent and for the duration period used for the project.** With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible.

(d) **costs of contractual research, knowledge and patents bought or licensed** from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;

(e) **additional overheads and other operating expenses**, including costs of materials, supplies and similar products, **incurred directly as a result of the project;**

The same categories of costs are considered as eligible under the **Horizon 2020** SME instrument phase 2 proposals⁴⁵, with the difference that **for the calculation of the overheads the cost of**

⁴⁴ See annex 2 of the Framework for State aid for research and development and innovation: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2014:198:FULL&from=EN>

contractual research costs are excluded. The H2020 programme applies a **flat-rate of 25%** of the remaining direct costs to determine the total eligible cost.

ESI Funds grants may, subject to the respect of Article 25(3) GBER:

- either use the same calculation method as H2020 for determining direct and indirect cost,⁴⁶
- or apply a flat-rate to the entire eligible costs according to Article 25(3) GBER and set a different percentage for the flat-rate, in line with Article 68(1)(a) of the Common Provisions Regulation for the ESI Funds (No 1303/2013).

Commercial revenues generated by prototypes and pilots used for experimental development activities do not have to be deducted from eligible cost under the state aid rules. In case of ESI Fund support, however, the rules for operations generating net revenue after completion set out in Article 61 of the Common Provisions Regulation for the ESI Funds (No 1303/2013) need to be respected, but could benefit from the SME exemption under Article 61(8)a and b CPR.

2.3 Common issues for all Seal of Excellence projects

The following rules of the GBER have to be complied with for all Seal of Excellence projects

- **Check for presence of an incentive effect of the support**

The check of the presence of an incentive effect is one of the general conditions for the application of the GBER. For SMEs, Article 6 of the GBER provides that the aid is considered to have an incentive effect if the aid beneficiary has submitted a written application for the aid to the relevant granting authority **before the work on the project or activity starts.**

In the case of Seal of Excellence projects the application date for funding under the Horizon 2020 SME Instrument programme is considered as the relevant application date.

The written application has to include some minimum information about the undertaking, the project and its costs and about the type of aid.

As Phase 1 and Phase 2 projects concern support for SMEs, the check of the managing authority consists in ensuring that the SME has handed in a written application form (e.g. a print-out of the H2020 application indicating the date of application) with the required information and a declaration that the work on the project had not started at that moment.

Managing authorities should be aware that if work has already started before the H2020 application, it will not be possible to give any ESI Fund aid to the project even if the support relates to activities that are carried out after the handing in of the application.

- **Open transparent and non-discriminatory procedure for the selection of projects**

⁴⁵ See H2020 rules for participation (Regulation (EU) No 1290/2013) Articles 26 – 33

⁴⁶ See Article 68(1) (c) CPR and Guidance on Simplified Cost Options (SCOs)

(http://ec.europa.eu/regional_policy/sources/thefunds/fin_inst/pdf/simpl_cost_en.pdf)

Neither the RDI section nor the regional aid section of the GBER require a specific selection procedure for the projects. Also for de-minimis aid it is not necessary from a State aid perspective to follow a specific selection procedure. However, cohesion policy rules require that the project selection follows specific rules.

Under cohesion policy rules, the project selection (first step at EU, second step at national / regional level) has to be **open, transparent and non-discriminatory** (see Article 125 (3) a Common Provisions Regulation for ESI Funds).

As the Horizon 2020 calls are Europe-wide (and beyond) open calls with publicly available thematic or scientific specifications, the Seal award procedure is open, transparent and non-discriminatory.

For the selection process at the level of the Managing Authorities, two ways to comply with the openness, transparency and non-discrimination requirement are recommended:

- open calls for all types of SME research and innovation projects where project proposals with the Horizon 2020 "Seal of Excellence" are awarded "bonus points" or given preference in the selection compared to projects that do not have such a Seal;
- specific calls accepting only project proposals with the Horizon 2020 "Seal of Excellence".

In both cases, the check of the location of the operation and of the compliance with the relevant smart specialisation strategy⁴⁷ is conform with the requirement of openness, transparency and non-discrimination, as these are part of the publicly available information and accessible via the ESI Fund programme web-sites and ESI Fund call information.

⁴⁷ i.e. the concentration of resources on the priorities in the sense of Art.2 (3) of the Common Provisions Regulation for the ESI Funds (No 1303/2013)

Annex 2: Practical example

An SME innovation project that received a Seal of Excellence includes activities falling both into the industrial research and experimental development categories. It foresees that 20% of the eligible cost will be dedicated to industrial research activities and 80% to experimental development activities. Of the latter 25% will be carried out by a research centre as contractual research. The total direct cost of the project is EUR 1 million. The company has 200 full-time employees and its annual turnover in the past years did not exceed EUR 30 million, and its annual balance sheets were below EUR 20 million (medium-sized firm).

Co-funding under H2020 rules:

Eligible cost: EUR 1 million direct costs + EUR 200 000 overheads (= 25% of the direct cost minus contractual research (800 000)) = EUR 1.2 million

Total H2020 contribution: EUR 840 000 (= 70% of EUR 1.2 million)

Nota bene: Horizon2020 excludes sub-contracted activities from the calculation for the overheads and uses a 25% flat-rate for determining the eligible indirect cost.

Option 1: Simplified co-funding under GBER & ESI Fund rules, following the H2020 calculation of indirect cost (as described above in the suggested 6 Steps for a simple ESI Fund Support Scheme for Seal of Excellence Projects):

Eligible cost: EUR 1 million direct costs + EUR 200 000 overheads (= 25% of the direct cost minus contractual research (800 000)⁴⁸) = EUR 1.2 million

Total possible ESI Fund contribution: EUR 600 000 (= 50% of EUR 1.2 million)

Option 2: Simplified co-funding under GBER & ESI Fund rules with maximum calculation base for indirect cost:

Eligible cost: EUR 1 million direct costs + EUR 250 000 overheads (= 25% of the entire eligible direct cost, including contractual research⁴⁹) = EUR 1.25 million

Total possible ESI Fund contribution: EUR 625 000 (50% of EUR 1.25 million)

Option 3: Maximum co-funding under GBER & ESI Fund rules:

Eligible cost: EUR 1 million direct costs + EUR 250 000 overheads (= 25% of the direct cost including contractual research⁵⁰) = EUR 1.25 million (of which EUR 250 000 for industrial research related costs and EUR 1 million for experimental development related costs, including the respective indirect costs)

Total possible ESI Fund contribution:

⁴⁸ This option relates to the method described in Article 68.1.(c) CPR

⁴⁹ This option relates to the method described in Article 68.1.(a) CPR

⁵⁰ This option relates to the method described in Article 68.1.(a) CPR

For industrial research: 75% of EUR 250 000 = EUR 187 500

For experimental development: 50% of EUR 1 million = EUR 500 000

Total: EUR 687 500