

RESPONSE TO COMMISSION'S CONSULTATION ON THE REVIEW OF THE SME DEFINITION

25 April 2018

SUMMARY

We welcome the opportunity to respond to the European Commission's public consultation on the review of the SME definition. Our main proposals are:

- We suggest **updating the current legal definition of an SME** to reflect current realities in different EU countries, as current figures reflect the realities of 14 years ago. We would recommend that an SME is defined as any company that satisfies any two of the following criteria: staff headcount of under 500, turnover of equal to or less than €500 million, or a balance sheet total equal to or less than €500 million.
- A bespoke definition of **small and mid-cap companies** is needed to enable focused and proportionate rules. Small and mid-cap companies are fundamentally different from large blue-chip companies, as well as from SMEs. They require different, tailored rules corresponding with their growth needs.
- While in case of non-listed companies, we agree that staff headcount, financial parameters and independence/ownership are appropriate criteria to determine if an enterprise is an SME. In case of **listed companies**, we propose to use **market capitalization** as the only criterion.
- To determine whether a company is a small and mid-cap, we propose an upper market capitalisation threshold of €1bn in line with the US JOBS Act. To reflect the diversity of EU markets, Member States could be permitted to adjust this threshold. All companies below this threshold should be exempted from certain EU disclosure requirements and allowed to access to the SME Growth Markets. We suggest updating the threshold after every two years. To reduce the effect of possible fast changes in share price value over time, we propose a 2- year 'grace period'.

Please see below our detailed response to the questionnaire.

RESPONSES TO SPECIFIC QUESTIONS

2.1 How familiar are you with the EU SME Definition as set out in the Recommendation?

- I have good knowledge of the EU SME Definition
- I am aware of the existence of the EU SME Definition but not of its specific contents
- I do not know the EU SME Definition

2.2 Please indicate whether you agree or disagree with the following statements on the EU SME Definition:

	I agree to a great extent	I agree to some extent	I don't agree	Don't know /No opinion
* It allows the Identification of enterprises facing potential market failure and particular challenges due to their size		x		
* It helps to limit the proliferation of different "SME definitions" at European and national level		x		
* It helps to make policies targeted at SMEs more effective and consistent across Member States and areas of intervention		x		
* It is a useful tool to improve equal treatment of SMEs throughout the EU		x		

2.3 The current EU SME Definition is based on three criteria: staff headcount, financial parameters and independence/ownership. Do you think these criteria are appropriate to determine if an enterprise is a genuine SME?

- Yes
- No
- No opinion

2.4 In the current EU SME Definition, meeting the staff headcount threshold is obligatory while the financial parameters can be chosen in order to cater for sectorial specificities. Do you think meeting any combination of 2 out of the 3 criteria (e.g. meeting only the 2 financial parameters, but not the headcount limit) would be more appropriate to determine whether a company is an SME?

- Yes
- No
- No opinion

IF YES: *2.4.1 Please explain

This diversity among the EU Members States should be recognised allowing for flexibility on how to define SMEs. We propose that the thresholds are revised and that an SME is defined as a company that satisfies any two of the three criteria. In case of listed companies, we propose to use only one criterion: market capitalization.

2.5 The current thresholds of the financial criterion were set in 2003. Since then, price levels and real labour productivity per hour worked have risen. Do you think that the financial thresholds should be raised to reflect this?

- Yes, both factors should be considered
- Yes, but only inflation should be considered
- Yes, but only labour productivity should be considered
- No, the thresholds should not be raised
- Don't know/No opinion
- Another factor should be considered

2.6 The staff headcount criterion states that the average headcount (in full time equivalents) for an SME over a financial year should be below 250 employees. Should this threshold be:

- Increased
- Kept as it is
- Lowered
- Eliminated
- Don't know/No opinion

2.7 The current SME definition distinguishes between 3 categories of enterprises: micro-sized (0-9 employees; ≤ EUR 2 mil turnover/balance sheet), small-sized (10–49 employees; ≤ EUR 10 mil turnover/balance sheet) and medium-sized (50-249 employees; ≤ EUR 50 mil turnover/< EUR 43 mil balance sheet). Do you think this categorisation is appropriate?

- Yes
- No
- No opinion

2.8 Enterprises where a venture capital company owns a more than 50% share are not considered autonomous. The same applies to enterprises in which a business angel participates with more than EUR 1.250.000. These enterprises might therefore not be considered an SME, even if

(Business angel: individual or group of individuals pursuing a regular business of investing venture capital)

individually they meet the staff headcount and financial thresholds. What is your opinion on the following statements?

	Strongly disagree	Somewhat disagree	Somewhat agree	Strongly agree	Don't know /No opinion
* These thresholds (50% and EUR 1.250.000) are appropriate		x			
* These thresholds should be substantially increased			x		
* These thresholds should be removed and a full exemption for venture capital and business angel investments should apply			x		
* This rule may discourage SMEs from seeking private investment				x	
* This rule may hinder venture capital investment in SMEs				x	

2.9 Enterprises in which a public authority controls more than 25% of the capital or voting rights are not considered SMEs. What is your opinion on the following statements?

	Strongly disagree	Somewhat disagree	Somewhat agree	Strongly agree	Don't know /No opinion
* The threshold of 25% is appropriate		x			
* The threshold should be substantially increased			x		
* The threshold should be removed and public control should not have an impact on the SME status of an enterprise				x	
* This rule puts publicly-owned companies at a disadvantage when competing with privately-owned businesses			x		

* This rule puts privately-owned companies at a disadvantage when competing with publicly-owned business					x
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2.10 In order to determine the real economic capacity of an SME, the current EU SME Definition takes into account ALL (direct and indirect) partner and linked enterprises. Recent rulings of the Court of Justice suggest that only some relationships should be taken into account. This creates potential loopholes for large groups to artificially set up separate entities that would then be considered SMEs. Do you agree that all relationships should continue to be taken into account in order to determine if an enterprise is a genuine SME?

Response: **YES**

2.11 The EU SME Definition establishes a 2-year 'grace period': enterprises only lose their SME status if they exceed the headcount and financial thresholds for two consecutive years. What is your opinion about this 'grace period'?

- The length of the "grace period" is appropriate
- The "grace period" is too short
- The "grace period" is too long
- I don't know/No opinion

2.12 To what extent would the following changes to the current EU SME Definition increase the risk of granting preferential treatment to enterprises that are not genuine SMEs and for which size does not represent a disadvantage?

	Not at all	To a small extent	To a large extent	I don't know/No opinion
* Raising the staff headcount threshold	x			
* Raising the financial thresholds	x			
* Raising the threshold for venture capital fund participation		x		
* Raising the threshold for business angel participation		x		
* Raising the threshold for control by a public entity	x			
* Extending the duration of the 'grace period'	x			
* Limiting the relationships that are taken into account to determine whether an enterprise is part of a group			x	

2.13 If you have additional comments or remarks please provide them here:

We believe that **the current legal definition of an SME** shall be updated to reflect current economic realities (current figures date from 14 years ago). We would recommend that an SME is defined as any company that satisfies any two of the following criteria: **staff headcount of under 500, turnover of equal to or less than €500 million, or a balance sheet total equal to or less than €500 million.**

In addition, we believe that a bespoke **definition of small and mid-cap companies** is needed to enable focused and proportionate rules. Small and mid-cap companies are fundamentally different from large blue-chip companies, as well as from SMEs. These companies differ in terms of their growth potential, size, turnover, job creation, percentage shareholding of investors, types of investors, etc. As such, they require different, tailored rules corresponding with their growth needs.

In line with the US JOBS Act, we propose an **upper market capitalisation threshold of €1bn**. Compared with the industry small-cap fund definitions ranging from €1bn to 7bn, such a threshold is modest. To reflect the diversity of EU markets, **Member States could be permitted to adjust this threshold. All companies below this threshold should be exempted from certain EU disclosure requirements** and allowed to access to the SME Growth Markets. We suggest updating the threshold after every two years. To reduce the effect of possible fast changes in share price value over time, we propose a 2-year 'grace period'.

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