FICSIMM, Romania

(the Federation for Innovation and Sustainable Competitiveness in SMEs)

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Contribution to the public consultation on the draft Communication from the Commission - Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, and its Annexes I and II (HT.4404)

An SME-centered perspective on rescue and restructuring aid in the Union

Status: non-confidential - submitted for publication on the consultation webpage

- **Part I** - General assessment of the draft Guidelines, including their significance for Romanian undertakings;
- **Part II** - The seven principles on which FICSIMM"s proposals are based;
- **Part III** - Eighteen concrete drafting amendments to the draft Guidelines;
- **Part IV** - Accompanying requests that fall outside the scope of the draft, but condition its effectiveness;
- **Part V** - Conclusions.

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I. General assessment

I.1. What FICSIMM supports in the draft Guidelines

FICSIMM welcomes the draft Guidelines and supports, without reservation, eight of their features:

First, the preservation of the three-instrument architecture and of temporary restructuring support as an instrument reserved to SMEs and smaller State-owned undertakings (points 12, 25 to 29 and 117 to 120). Liquidity assistance that is limited in amount and duration is the least distortive form of aid and the one most relevant to SMEs, whose difficulties are, in the great majority of cases, liquidity crises rather than structural failures.

Second, the maintenance of Chapter 6, which allows Member States to operate schemes for SMEs with simplified conditions, reduced information requirements and a clear ex ante statement of the terms of aid. For an undertaking with forty employees, individual notification to the Commission is not a realistic channel; Chapter 6 is where the Guidelines succeed or fail for 99.8% of European undertakings.

Third, the exclusion of SMEs from the new quantitative test in point 20(d). Applying a mechanical debt-to-equity and interest-coverage screen to SMEs, whose capital structures are thin and volatile by nature, would have classified large numbers of viable firms as undertakings in difficulty. Confining the test to large undertakings is the correct choice.

Fourth, the carve-out for innovative startups (points 17 and 24(c)). Recognising that a loss-making capital structure in the first years after establishment is a feature of the business model, not evidence of imminent failure, removes a distortion that FICSIMM has raised consistently in its positions on the 28th Regime (EU Inc.) and on access to finance for young firms.

Fifth, the derogation in point 29, which allows rescue aid and temporary restructuring support to be granted to undertakings that are not in difficulty but face acute liquidity needs due to exceptional and unforeseen circumstances. The shocks of 2020 - 2025 demonstrated that solvency and liquidity can diverge abruptly for reasons entirely outside the control of the undertaking.

Sixth, the strict maintenance of the "one time, last time" principle over ten years (points 72 to 77 and 115). Repeated rescue of the same undertaking is the most corrosive form of State aid for the competitors that never receive any. The principle also protects Member States with limited fiscal space: the more permissive the framework, the more its benefits accrue to the treasuries that can afford to use it.

Seventh, the proportionate treatment of the smallest beneficiaries: reduced own-contribution rates of 40% for medium-sized and 25% for small enterprises (point 114) and the exemption of small enterprises from measures to limit distortions of competition (point 116).

Eighth, the transparency waiver for individual awards below EUR 100 000 (point 99), which keeps the reporting burden of small awards proportionate to their distortive potential.

I.2. The central concern: the SME chapter is carried over at 2014 nominal values

The draft modernises the scope of the Guidelines but carries over the financial parameters of Chapter 6 unchanged from 2014. The maximum total amount of aid to any one undertaking under a scheme remains EUR 10 million (point 109); the ceiling of the accelerated procedure remains EUR 10 million (point 131); the remuneration floor remains 1-year IBOR plus 400 basis points (points 59 and 119).

Between 2014 and 2026, cumulative consumer-price inflation in the euro area amounts to approximately 30%, and the cost components that dominate a restructuring - energy, construction, equipment and wages - have risen considerably faster in Central and Eastern Europe. A ceiling of EUR 10 million in 2027 purchases what roughly EUR 7 million purchased when the figure was first written, and it will purchase less still in 2034, at the end of an eight-year period of application. **The chapter looks unchanged and permits substantially less.** The same reasoning that led the Commission to update the reference period of the regional aid maps should lead it to restore the real value of the only ceiling in the State aid architecture that is written specifically for SMEs.

Amendments 11 and 18 set out the drafting.

I.3. The inclusion of the steel sector and the asymmetry of fiscal capacity

FICSIMM does not oppose the inclusion of the steel sector in the scope of the Guidelines (point 16). The structural analysis is sound, and Romania knows the problem from direct experience: the largest integrated steelworks in the country, at Galați, has been in judicial reorganisation since 2024, with consequences that propagate through hundreds of SME suppliers, subcontractors and service providers in the Sud-Est region.

The concern is different. Rescue and restructuring of large steel producers involves amounts that only Member States with substantial fiscal space can deploy. The draft itself acknowledges, in point 9, that such aid may set off “a wasteful subsidy race among Member States”. Romania is implementing a multi-annual fiscal consolidation from a general government deficit of approximately 9% of GDP in 2024; it cannot match the support that fiscally stronger Member States can extend to their national producers. Nor can the tens of thousands of steel-using SMEs across the Union - in construction, machinery or metal products - be expected to compete on equal terms with undertakings whose input supplier is sustained by the State.

For this reason, FICSIMM”s position on the framework as a whole is one of **restraint**: thresholds for large undertakings should remain rigorous, own contribution and burden sharing should remain demanding, and the “one time, last time” principle should remain strict, precisely so that competitive equilibrium is preserved between Member States that can afford substantial aid and those that cannot. Where the steel sector is concerned, recognition of difficulty must be accompanied by Union-level discipline on capacity, cross-border effects and the distribution of aid among Member States.

Amendment 17 sets out the drafting; Section IV.3 sets out the accompanying monitoring request.

I.4. Social hardship measured at NUTS 2 level conceals the places where exit hurts

Point 43(a) allows social hardship to be demonstrated by reference to unemployment in the region concerned at NUTS 2 level. Romania combines converging regional averages with widening intra-regional divergence: the gap between county capitals and peripheral counties within the same development region has grown across the entire 2014 - 2027 period, a pattern FICSIMM documented in its April 2024 paper on decreasing disparities within regions and pockets of underdevelopment. The exit of the dominant employer of a county town is a county event; a NUTS 2 average that includes a dynamic regional capital cannot see it.

The same blindness affects eastern border regions and severely depopulating territories, which the draft Guidelines do not mention although the parallel revision of the regional aid maps recognises the former as a distinct structural category.

Amendments 5, 7 and 12 address this.

I.5. The price of rescue liquidity for small enterprises

Rescue aid and temporary restructuring support must be remunerated at not less than 1-year IBOR plus 400 basis points, with escalations of at least 50 basis points (points 59 and 119). For a small enterprise in acute distress, in a Member State where the relevant interbank rate has itself been elevated for most of the last four years, the resulting cost of the very liquidity that is meant to preserve the undertaking can consume the operating margin whose restoration is the purpose of the aid. Small amounts, short durations and the conditions of Chapter 6 already contain the moral hazard; the price of the instrument should be proportionate to the beneficiary.

Amendment 8 sets out the drafting.

I.6. An eight-year framework without a review point

The Guidelines will apply from 1 January 2027 until 31 December 2034 (point 145), with only a general revision clause (point 150). Eight years is a long time in a decade of asymmetric shocks, and every monetary value in the text erodes throughout that period.

The revised regional aid framework provides for a mid-term review in 2030; the Rescue and Restructuring Guidelines - which will absorb the consequences of the same shocks - should provide for the same review moment.

Amendment 18 sets out the drafting.

II. The seven principles underpinning FICSIMM"s proposals

1. SMEs are rescued through schemes or not at all. Individual notification is not a realistic channel for a small undertaking; Chapter 6 is the operative SME chapter of the Guidelines and deserves corresponding attention.

2. A nominal ceiling frozen for twelve years is a real cut. Continuity must be measured by what the ceiling permits, not by the figure printed in the text.

3. Restraint on aid to large undertakings is the SME-friendly setting. Strict eligibility, full burden sharing and the "one time, last time" principle protect the many undertakings that never receive aid from the few that do - and protect Member States without fiscal space from a subsidy race they cannot join.

4. Sectoral re-inclusion must not become a subsidy race. The recognition of the steel sector"s difficulties must carry Union-level discipline on capacity, downstream effects and the distribution of aid among Member States.

5. Social hardship is local. NUTS 2 averages conceal the dependence of county-level employment on a single undertaking; the criteria must be able to see counties, eastern border regions and depopulating territories.

6. Liquidity is the least distortive aid and the most SME-relevant. Rescue aid and temporary restructuring support deserve the fastest procedures and the most proportionate pricing in the framework.

7. Simplification must be operational, not declaratory. Standard templates, firm deadlines and machine-readable transparency reduce the cost of the framework for the smallest beneficiaries and for granting authorities alike.

III. Amendments to the draft Guidelines

III.1. Scope and definitions

FICSIMM Amendment 1

Draft Guidelines - Section 2.2 (Material scope)

Point 20(d)(i)

Text of the draft Guidelines	FICSIMM amendment
"i. the undertaking"s book debt to equity ratio, as defined in letter a), has been greater than 7.5, and"	"i. the undertaking"s book debt to equity ratio, ~~as defined in letter a),~~ **calculated as the ratio of total book debt to total equity, including financial instruments absorbing losses on a going concern basis, as recorded in the financial statements in compliance with the applicable accounting standards,** has been greater than 7.5, and"

Justification

The cross-reference to "letter a)" is circular: point 20(a) defines a loss-absorption test applied to subscribed share capital, not a debt-to-equity ratio. The ambiguity of the "undertaking in difficulty" definition was identified in the Commission"s 2020 fitness check as a source of divergent national interpretation, and the test in point 20(d) is applied daily - well beyond notified aid - by granting authorities and financial intermediaries screening eligibility under the General Block Exemption Regulation and Union financial instruments. A self-standing definition is a pure legal-certainty gain, with no substantive change.

FICSIMM notes with approval that the test in point 20(d) does not apply to SMEs.

FICSIMM Amendment 2

Draft Guidelines - Section 2.2 (Material scope)

Point 24(b)

Text of the draft Guidelines	FICSIMM amendment
"(b) an SME that has been in existence for less than three years will not be considered to be in difficulty unless it meets the condition set out in point 20(c) of these guidelines, and;"	"(b) an SME that has been in existence for less than ~~three~~ **five** years will not be considered to be in difficulty unless it meets the condition set out in point 20(c) of these guidelines, and;"

Justification

The three-year window dates from 2014. The financial statements of young SMEs commonly show accumulated losses exceeding half of subscribed share capital well beyond the third year of operation, without any risk of exit in the short or medium term: the median European SME reaches sustained break-even between its fourth and sixth year. The draft itself accepts a five-year window for innovative startups in point 24(c). The asymmetry between an innovative and a non-innovative young firm - both loss-making by construction of their early capital structure - is difficult to justify at the moment that matters most in practice: the eligibility screen applied by a bank or guarantee institution under instruments that exclude undertakings in difficulty. The safeguard of point 20(c) (collective insolvency proceedings) is fully preserved.

FICSIMM Amendment 3

Draft Guidelines - Section 2.2 (Material scope)

Footnote 24, criterion (c) of the definition of "innovative start-up"

Text of the draft Guidelines	FICSIMM amendment
"(c) it employs fewer than 100 persons and its annual turnover or annual balance sheet total, or both, does not exceed EUR 10 million;"	"(c) it employs fewer than ~~100~~ **250** persons and its annual turnover does not exceed ~~EUR 10 million~~ **EUR 50 million or its annual balance sheet total does not exceed EUR 43 million**;"

Justification

As drafted, criterion (c) creates a third size definition in Union law, narrower than the SME definition in Recommendation 2003/361/EC. It excludes precisely the startups the carve-out is designed for: a capital-intensive deep-tech undertaking - in semiconductors, batteries, space or biotechnology - exceeds a EUR 10 million balance sheet after one successful funding round, because it is successful in raising capital, and would thereby fall back into the general “undertaking in difficulty” test that point 17 declares inappropriate for its business model.

Aligning the thresholds with the SME definition avoids definitional fragmentation, an issue FICSIMM has raised consistently in its positions on the 28th Regime (EU Inc.), and keeps the carve-out bounded by the other three cumulative criteria of the definition.

FICSIMM Amendment 4

Draft Guidelines - Section 2.3

Point 29

Text of the draft Guidelines	**FICSIMM amendment**
“By way of derogation to point 19, rescue aid, as well as temporary restructuring support in the case of SMEs and smaller State-owned undertakings, may also be granted to undertakings that are not in difficulty within the meaning of point 20 but that are facing acute liquidity needs due to exceptional and unforeseen circumstances.”	“By way of derogation to point 19, rescue aid, as well as temporary restructuring support in the case of SMEs and smaller State-owned undertakings, may also be granted to undertakings that are not in difficulty within the meaning of point 20 but that are facing acute liquidity needs due to exceptional and unforeseen circumstances. **Such circumstances may include, in particular, natural disasters, serious security-related disruption, including in eastern border regions, sudden and severe disruption of energy supply or of energy prices, or the abrupt loss of a significant export market as**

Text of the draft Guidelines	FICSIMM amendment
	a result of war, sanctions or trade measures adopted by third countries.”

Justification

The derogation is one of the most valuable innovations of the draft, and it is undefined. An illustrative, non-exhaustive list drawn from the shocks actually experienced between 2020 and 2026 gives granting authorities and beneficiaries the predictability the provision needs, without limiting the Commission”s assessment. The express reference to security-related disruption in eastern border regions aligns the Guidelines with the recognition of those regions as a distinct structural category in the parallel revision of the regional aid maps, on which FICSIMM contributed in August 2026.

III.2. Demonstration of social hardship or market failure

FICSIMM Amendment 5

Draft Guidelines - Section 3.2.1

Point 43(a)

Text of the draft Guidelines	FICSIMM amendment
“(a) the unemployment rate in the region or regions concerned (at Nomenclature of Territorial Units for Statistics (“NUTS”) level II) is either: (i) higher than the Union average, persistent and accompanied by difficulty in creating new employment in the region or regions concerned, or (ii) higher than the national average, persistent and accompanied by difficulty in creating new employment in the region or regions concerned;”	“(a) the unemployment rate in the region or regions concerned (at Nomenclature of Territorial Units for Statistics (“NUTS”) level II **or, where the Member State demonstrates the relevance of the smaller territorial unit to the situation of the beneficiary, at NUTS level III**) is either: (i) higher than the Union average, persistent and accompanied by difficulty in creating new employment in the region or regions concerned, or (ii) higher than the

Text of the draft Guidelines	FICSIMM amendment
	national average, persistent and accompanied by difficulty in creating new employment in the region or regions concerned;”

Justification

The exit of the dominant employer of a county town is a county event. A NUTS 2 average that includes a dynamic regional capital conceals exactly the situations the criterion exists to capture. Romania - and Central and Eastern Europe generally - combines converging NUTS 2 averages with widening divergence between county capitals and peripheral counties inside the same region, a pattern FICSIMM documented in its April 2024 paper on pockets of underdevelopment. Eurostat publishes unemployment data at NUTS 3 level; the amendment creates no new data requirement and leaves the burden of demonstration with the Member State.

FICSIMM Amendment 6

Draft Guidelines - Section 3.2.1

Point 43(c)

Text of the draft Guidelines	FICSIMM amendment
“(c) the exit of an undertaking with an important systemic role in a particular region or sector would have potential negative consequences (for example, a supplier of an important input);”	“(c) the exit of an undertaking with an important systemic role in a particular region or sector would have potential negative consequences (for example, a supplier of an important input **or an undertaking on which a significant number of SMEs depend as customers, suppliers or subcontractors**);”

Justification

The systemic role of an anchor undertaking is transmitted through its SME network: when an integrated industrial site fails, the first-round casualties are the suppliers, subcontractors and service providers concentrated around it, which cannot diversify their client base at the speed of an insolvency. The amendment codifies what is already Commission practice in individual cases and makes the SME transmission channel visible in the text of the criterion itself.

FICSIMM Amendment 7

Draft Guidelines - Section 3.2.1

Point 43(f)

Text of the draft Guidelines	**FICSIMM amendment**
"(f) the exit of the undertaking concerned from the market would lead to an irremediable loss of important technical knowledge or expertise, or threaten the economic security of the Union, or threaten resilience by making the Union fully dependent on imports for critical goods or services;"	"(f) the exit of the undertaking concerned from the market would lead to an irremediable loss of important technical knowledge or expertise, or threaten the economic security of the Union, or threaten resilience by making the Union **or a Member State substantially** ~~fully~~ dependent on imports for critical goods or services**, or significantly weaken the economic resilience of an eastern border region**;"

Justification

A criterion that requires demonstrating that the Union as a whole would become fully dependent on imports sets a threshold so high that it will almost never be met; it risks remaining a dead letter. Substantial dependence, including at Member State level, is the operative reality that resilience policy - from the Economic Security Strategy to the Industrial Accelerator Act, on which FICSIMM submitted amendments in May 2026 - actually addresses. The addition concerning eastern border regions mirrors Amendment 4 and the parallel regional aid framework.

III.3. Appropriateness, proportionality and pricing

FICSIMM Amendment 8

Draft Guidelines - Sections 3.3.2.1 and 6.6

Points 59 and 119

Text of the draft Guidelines	FICSIMM amendment
"The Commission will therefore require remuneration to be set at a rate not less than the reference rate set out in the Reference Rate Communication for weak undertakings offering normal levels of collateralisation (currently 1-year IBOR plus 400 basis points) […]" (point 59; point 119 contains the equivalent requirement for temporary restructuring support)	"The Commission will therefore require remuneration to be set at a rate not less than the reference rate set out in the Reference Rate Communication for weak undertakings offering normal levels of collateralisation (currently 1-year IBOR plus 400 basis points**, or plus 300 basis points in the case of small enterprises**) […]" **(the same adjustment to be made in point 119)**

Justification

For a small enterprise in acute distress, in a Member State where the one-year interbank rate has itself remained elevated, a mandatory margin of 400 basis points on the rescue liquidity can consume the operating margin whose restoration is the purpose of the aid. The amounts involved are small, the duration is capped at six or eighteen months, the escalation of 50 basis points that provides the exit incentive is fully preserved, and the conditions of Chapter 6 contain the moral hazard. Pricing should be proportionate to the beneficiary, as the own-contribution rates of point 114 already are.

FICSIMM Amendment 9

Draft Guidelines - Section 6.4

Point 114

Text of the draft Guidelines	FICSIMM amendment
“By way of derogation from point 66, Member States may consider an own contribution to be adequate if it amounts to at least 40% of the restructuring costs in the case of medium-sized enterprises or 25% of the restructuring costs in the case of small enterprises.”	“By way of derogation from point 66, Member States may consider an own contribution to be adequate if it amounts to at least 40% of the restructuring costs in the case of medium-sized enterprises, 25% of the restructuring costs in the case of small enterprises **or 15% of the restructuring costs in the case of micro-enterprises. The same rates apply where aid to SMEs or smaller State-owned undertakings is notified individually to the Commission.**”

Justification

Micro-enterprises - fewer than ten employees and a turnover not exceeding EUR 2 million - have, in practice, no access to capital markets, to subordinated instruments or to new external equity; a 25% own contribution can exceed what the undertaking can raise from any source in the relevant timeframe. A distinct 15% rate keeps the contribution real and significant, as point 65 requires, while making the derogation usable by the smallest category of beneficiary.

The second sentence removes an ambiguity: footnote 26 states that individually notified aid to SMEs will be assessed “in accordance with these guidelines”, without specifying whether the Chapter 6 derogations follow the beneficiary or the procedure. They should follow the beneficiary.

FICSIMM Amendment 10

Draft Guidelines - Section 3.3.4.2.1

Point 86(a)

Text of the draft Guidelines	FICSIMM amendment
"(a) beneficiaries must be required to refrain from acquiring interest in any company during the restructuring period, except where indispensable to ensure the long-term viability of the beneficiary. […] Exceptionally, any such acquisitions may be authorised by the Commission as part of the notified restructuring plan, or by a new decision in the course of its implementation, upon reasoned request of the Member State;"	"(a) beneficiaries must be required to refrain from acquiring interest in any company during the restructuring period, except where indispensable to ensure the long-term viability of the beneficiary. […] Exceptionally, any such acquisitions may be authorised by the Commission as part of the notified restructuring plan, or by a new decision in the course of its implementation, upon reasoned request of the Member State. **For SMEs receiving aid under schemes pursuant to Chapter 6, acquisitions of a total value not exceeding EUR 300 000 over the restructuring period which are indispensable to ensure the long-term viability of the beneficiary may be authorised by the granting authority without a new decision of the Commission;**"

Justification

For a small undertaking, the restructuring frequently is a small acquisition: a workshop, a licence, the assets of a failed competitor bought out of insolvency. Requiring a Commission decision for transactions of this scale is disproportionate to any conceivable distortion and slower than the insolvency timetables within which such assets are sold. The threshold proposed is aligned with the de minimis ceiling of Regulation (EU) 2023/2831, and the substantive test - indispensability for long-term viability - is unchanged; only the authorising level is adjusted, within schemes whose terms the Commission has already approved.

III.4. The parameters of Chapter 6

FICSIMM Amendment 11

Draft Guidelines - Section 6.1

Point 109

Text of the draft Guidelines	FICSIMM amendment
"[…] The maximum total amount of aid granted to any one undertaking may not be more than EUR 10 million, including any aid obtained from other sources or under other schemes."	"[…] The maximum total amount of aid granted to any one undertaking may not be more than EUR ~~10~~ **15** million, including any aid obtained from other sources or under other schemes. **The Commission will review this amount as part of the mid-term evaluation referred to in point 150a.**"

Justification

The EUR 10 million ceiling was written in 2014. Cumulative euro-area consumer-price inflation between 2014 and 2026 amounts to approximately 30%, and the cost components that dominate a restructuring - energy, construction, equipment and wages - have risen faster still in the Member States where most industrial SMEs in difficulty are located. Carried over unchanged, the ceiling delivers, in real terms, between one quarter and one third less than the framework it replaces, and its real value will continue to erode over an eight-year period of application ending in 2034.

EUR 15 million restores the 2014 real value with a margin for the period of validity. The distortive potential remains tightly contained: the ceiling applies only to SMEs and smaller State-owned undertakings, only under schemes whose terms the Commission approves ex ante, cumulated across all sources, and subject to the "one time, last time" principle. FICSIMM underlines that it proposes no corresponding relaxation for large undertakings, for the reasons set out in Section I.3.

FICSIMM Amendment 12

Draft Guidelines - Section 6.2

Point 111, new point (d), current point (d) becoming point (e)

Text of the draft Guidelines	FICSIMM amendment
"[…] (c) the failure or adverse incentives of credit markets would push an otherwise viable undertaking into bankruptcy; or (d) similar situations of hardship duly substantiated by the beneficiary would arise."	"[…] (c) the failure or adverse incentives of credit markets would push an otherwise viable undertaking into bankruptcy; **(d) the exit of an undertaking located in an eastern border region, or in a NUTS 3 region that experienced a population loss of more than 7.5% over the period 2013 - 2024, would have potential negative consequences;** or **(e)** similar situations of hardship duly substantiated by the beneficiary would arise."

Justification

In eastern border regions and in severely depopulating territories, the marginal social cost of a viable SME"s exit is categorically higher: alternative employers are scarce, each closure accelerates outward migration, and the resulting spiral is the phenomenon that both the Pact for the Eastern Border Regions and the revised regional aid framework seek to interrupt. The criterion proposed uses the same population-loss threshold and reference period that FICSIMM proposed in its August 2026 contribution on the regional aid maps, so that the two frameworks read the territory identically.

FICSIMM Amendment 13

Draft Guidelines - Section 3.3.4.1

Point 73, new final sentence

Text of the draft Guidelines	FICSIMM amendment
"When rescue or restructuring aid is notified to the Commission, the Member State must specify whether the undertaking concerned has already received rescue aid, restructuring aid or temporary restructuring support in the past, including any such aid granted before the entry into force of these guidelines and any non-notified aid. […]"	"When rescue or restructuring aid is notified to the Commission, the Member State must specify whether the undertaking concerned has already received rescue aid, restructuring aid or temporary restructuring support in the past, including any such aid granted before the entry into force of these guidelines and any non-notified aid. […] **For the purposes of this section, aid granted under temporary frameworks adopted pursuant to Article 107(3), point (b), of the Treaty, including aid granted in response to the COVID-19 pandemic and to the consequences of Russia"s war of aggression against Ukraine, does not constitute rescue aid, restructuring aid or temporary restructuring support.**"

Justification

Hundreds of thousands of European SMEs received crisis aid between 2020 and 2024 under the Temporary Framework and the Temporary Crisis and Transition Framework. That aid is legally distinct from aid under these Guidelines, and it therefore does not trigger the "one time, last time" principle - but granting authorities and financial intermediaries apply the check divergently, and FICSIMM"s members report refusals of financing motivated by past crisis aid. An explicit sentence states the legally correct position and removes a documented source of error at zero substantive cost. A parallel clarification should be made in point 115 for the purposes of Chapter 6.

FICSIMM Amendment 14

Draft Guidelines - Section 6.5

Point 116, final sentence

Text of the draft Guidelines	FICSIMM amendment
"[…] However, small enterprises should not normally increase their capacity during a restructuring period."	"[…] However, small enterprises should not normally increase their capacity during a restructuring period. **Investments that modernise production processes, improve energy or resource efficiency or ensure compliance with Union standards are not considered an increase in capacity for the purposes of this point.**"

Justification

The restoration of viability of an industrial SME almost always requires retrofitting: replacing obsolete, energy-intensive equipment is frequently the single measure that returns the undertaking to positive margins. An undefined capacity standstill deters precisely those investments, because neither the beneficiary nor the granting authority can be certain that a more efficient machine will not be read as "capacity". The clarification is consistent with point 44, under which the Commission takes positively into account the preservation or improvement of the environment made possible by the aid, and with the retrofitting and energy-efficiency instrument for industrial SMEs that FICSIMM has developed with the Investment and Development Bank.

FICSIMM Amendment 15

Draft Guidelines - Section 6.6

Point 118(e)

Text of the draft Guidelines	FICSIMM amendment
“(e) not later than six months after disbursement of the first instalment to the beneficiary, less any immediately preceding period of rescue aid, the Member State must approve a simplified restructuring plan. That plan does not need to contain all the elements set out in points 47 to 53, but must, as a minimum, identify the actions that the beneficiary must take to restore its long-term viability without State support.”	“(e) not later than six months after disbursement of the first instalment to the beneficiary, less any immediately preceding period of rescue aid, the Member State must approve a simplified restructuring plan. That plan does not need to contain all the elements set out in points 47 to 53, but must, as a minimum, identify the actions that the beneficiary must take to restore its long-term viability without State support. **The Commission will publish a standard template for the simplified restructuring plan; a plan drawn up on the basis of that template is deemed to satisfy the requirements of this point.**”

Justification

Annex II provides an indicative model for full restructuring plans; nothing equivalent exists for the simplified plan on which the entire temporary-restructuring-support instrument depends. In its absence, each Member State - and in practice each granting authority - develops its own format, and SMEs purchase from consultants a document whose required content the Guidelines deliberately left minimal. A Union template, with deemed conformity, is the least expensive simplification available anywhere in this framework and directly serves the burden-reduction objective stated in point 110.

FICSIMM Amendment 16

Draft Guidelines - Section 7.1

Point 131

Text of the draft Guidelines	FICSIMM amendment
"The Commission will, as far as possible, endeavour to take a decision within a period of one month in respect of rescue aid that complies with all of the conditions set out in Chapter 3 and with the following cumulative requirements: […]"	"The Commission will, as far as possible, endeavour to take a decision within a period of one month in respect of rescue aid**, and in respect of schemes for rescue aid, restructuring aid or temporary restructuring support pursuant to Chapter 6,** that complies with all of the conditions set out in Chapter 3 and with the following cumulative requirements: […]"

Justification

For SMEs, the scheme is the channel: an undertaking in acute liquidity crisis is preserved by a scheme that already exists, not by one approved after its insolvency. Accelerating only individual rescue aid - in practice, aid to large undertakings - inverts the proportionality of the framework. Extending the one-month endeavour to Chapter 6 schemes, whose conditions are standardised precisely to permit rapid assessment, gives Member States a reason to put standing instruments in place before difficulties materialise rather than improvising afterwards.

III.5. The steel sector and the review of the framework

FICSIMM Amendment 17

Draft Guidelines - Chapter 1 (Introduction)

New point 16a

Text of the draft Guidelines	FICSIMM amendment
[No corresponding provision in the draft Guidelines.]	**"16a. When assessing rescue or restructuring aid to undertakings active in the steel sector, the Commission will pay particular attention, in the calibration of measures under Section 3.3.4.2.2, to the situation of production capacity at Union level, to the effects of the aid on undertakings active in downstream steel-using sectors in other Member States, in particular SMEs, and to the cumulative distribution of aid granted under these guidelines across Member States. The Commission will report on such aid in the State aid Scoreboard."**

Justification

FICSIMM does not oppose the inclusion of the steel sector; Romania hosts the Galați integrated steelworks, in judicial reorganisation since 2024, and understands from direct experience what is at stake for the SME networks around such sites. But the draft itself warns, in point 9, that rescue and restructuring aid "may set off a wasteful subsidy race among Member States", and steel is the sector in which that warning is most likely to materialise: capital-intensive, characterised by recognised overcapacity at global level, and politically salient in every producing Member State.

Member States" capacity to respond is radically unequal. A Member State implementing a fiscal consolidation from a deficit of approximately 9% of GDP cannot match the support available to competing producers elsewhere in the internal market; nor should steel-using SMEs across the Union face competitors whose input supplier is sustained by the State. The amendment does not restrict the possibility of aid. It directs the calibration of remedies to the two dimensions - Union-level capacity and cross-border downstream effects - where distortions will actually arise, and it makes the distribution of such aid among Member States transparent. Recognition of a sector"s difficulty must carry Union-level discipline, or it becomes a race that only some treasuries can run.

FICSIMM Amendment 18

Draft Guidelines - Chapter 11 (Revision)

New point 150a

Text of the draft Guidelines	FICSIMM amendment
[No corresponding provision in the draft Guidelines. Point 150 provides for revision at any time at the Commission"s initiative.]	**"150a. The Commission will carry out a mid-term evaluation of the application of these guidelines by 31 December 2030, covering in particular the monetary amounts referred to in points 99, 109, 123, 127 and 131, the functioning of the schemes provided for in Chapter 6, and the effects of the inclusion of the steel sector in the scope of these guidelines. On the basis of that evaluation, the Commission may amend these guidelines in accordance with point 150."**

Justification

The Guidelines will apply for eight years, until 31 December 2034, through a period in which every monetary value in the text will erode and in which the effects of the two principal innovations - the steel inclusion and the point 29 derogation - are genuinely uncertain. The revised regional aid framework provides for a mid-term review in 2030; providing the same review moment here creates a single point at which the State aid architecture can be examined coherently, and gives the assurance - important for Member States on both sides of the fiscal divide - that the review can move in both directions.

IV. Accompanying requests

IV.1. Alignment of the General Block Exemption Regulation

The "undertaking in difficulty" definition in Article 2(18) of the General Block Exemption Regulation, and the exclusion in its Article 1(4)(c), must be aligned with points 20, 24 and footnote 24 of the revised Guidelines and enter into application on the same date. The definition is applied daily - far beyond notified aid - by granting authorities, managing authorities and financial intermediaries operating InvestEU, cohesion-policy and national instruments; divergence between the two texts, even for a transitional period, is transmitted immediately to SMEs in the form of refusals of guaranteed financing on formal grounds. The GBER revision currently under way provides the natural vehicle.

IV.2. Coherence across the State aid architecture

The Rescue and Restructuring Guidelines are being revised in parallel with the General Block Exemption Regulation, the regional aid maps for 2028 - 2034, the Clean Industrial Deal State Aid Framework and the establishment of the European Competitiveness Fund (ECF). Each instrument is assessed separately; undertakings encounter them together. FICSIMM asks the Commission to publish, alongside the final Guidelines, a practical overview of how the "undertaking in difficulty" test and the exclusions deriving from it operate across these instruments, so that a granting authority or a bank can apply one test rather than reconstructing it from five texts.

IV.3. Monitoring the asymmetry of fiscal capacity

A framework for aid to undertakings in difficulty is used in proportion to the fiscal space of the Member State operating it. The experience of the crisis frameworks is instructive: approvals were concentrated to a striking degree in a small number of Member States, with a single Member State accounting for approximately half of the aid approved under the COVID-19 Temporary Framework.

If the same pattern reproduces itself under these Guidelines - and the inclusion of the steel sector makes that plausible - the result will be a widening, not a narrowing, of the competitive gap inside the internal market, borne in the first instance by the SMEs of the Member States that cannot afford to participate.

FICSIMM asks the Commission to report, in the State aid Scoreboard and in the mid-term evaluation proposed in Amendment 18, on the distribution of rescue and restructuring aid across Member States, by sector and by size of beneficiary.

IV.4. Articulation with the preventive restructuring framework

Points 5 and 6 of the draft correctly state that restructuring should usually be possible without State aid, through agreements with creditors or by means of insolvency or reorganisation proceedings, and that modern insolvency law should help sound companies survive. Directive (EU) 2019/1023 on preventive restructuring frameworks is the Union instrument that makes that premise real.

FICSIMM asks the Commission to clarify, in practical guidance accompanying the Guidelines, how aid under the Guidelines articulates with preventive restructuring procedures - in particular, that recourse to a preventive framework does not in itself constitute the point 20(c) insolvency criterion, and how the restructuring plan required by Section 3.2.2 relates to a plan confirmed under the Directive - so that SMEs face a single, sequenced path rather than two parallel and possibly inconsistent ones.

IV.5. Operational simplification:s templates, deadlines, machine-readable transparency

FICSIMM asks that the standard template for the simplified restructuring plan (Amendment 15) be accompanied by a standard liquidity-plan template implementing Annex I, and that the transparency information required under Section 3.3.5 be published in machine-readable form through the Transparency Award Module, so that the “one time, last time” verification required of every granting authority under point 115 can be performed against a single Union dataset rather than by written enquiry.

IV.6. Union-level instruments for SMEs in difficulty in eastern border regions

Where the fiscal space of the Member State is itself the binding constraint, the Guidelines alone cannot deliver: the possibility of aid is not the availability of aid.

For the eastern border regions, FICSIMM has proposed, within EastInvest Facility, a dedicated window combining guarantees, blended finance and simplified micro-grant schemes for SMEs, with ring-fenced allocations and procedures aligned with commercial timelines.

FICSIMM asks that the situation of viable SMEs in temporary distress in eastern border regions be expressly considered in the design of that facility and of the relevant windows of the European Competitiveness Fund, as the Union-level complement to the national instruments these Guidelines govern.

V. Conclusions

FICSIMM supports the draft Guidelines in their architecture and welcomes in particular the preservation of temporary restructuring support for SMEs, the carve-outs for young and innovative firms, the derogation for acute liquidity needs arising from exceptional circumstances, and the strict maintenance of the "one time, last time" principle.

The proposals set out above address a single, consistent concern:

*The chapter of the Guidelines written for SMEs is carried over at the nominal values of 2014, in a text that will apply until 2034;

*The sector newly admitted to the scope is the one most likely to trigger the subsidy race against which the draft itself warns; and

*The criteria through which social hardship is demonstrated cannot see the counties, border regions and depopulating territories where the exit of a viable undertaking does the greatest damage.

None of the eighteen amendments proposed here-above relaxes the discipline of the framework for large undertakings, reopens its methodology or reduces the protection it affords to competitors that receive no aid. They ask for four things:

*That the real value and the operability of Chapter 6 be restored - through the ceiling, the pricing, the templates and the accelerated procedure;

*That the inclusion of the steel sector be accompanied by Union-level discipline on capacity, downstream effects and the distribution of aid among Member States;

*That social hardship be demonstrable where it occurs - at NUTS 3 level, in eastern border regions and in severely depopulating territories; and

*That the framework be reviewed at mid-term, in 2030, together with the rest of the State aid architecture.

Rescue and restructuring aid is written for exceptional cases, but its consequences are general. For the small and medium-sized enterprises that make up 99.8% of the Union"s undertakings, these Guidelines determine two things at once:

whether a viable firm in a county town survives a liquidity shock, and

whether the firms that never receive aid compete on a market shaped by the treasuries of others. Both halves of that balance deserve the amendments proposed here.

FICSIMM remains at the disposal of DG Competition for any clarification of the proposals set out in this contribution.

FICSIMM - the Federation for Innovation and Sustainable Competitiveness in SMEs, Romania - Transparency Register number 106130498490-94

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