

# Draft procedural guidance on state aid notifications and reporting

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## 1. Preface

- 1.1 The European Union (Withdrawal) Act 2018 (the Withdrawal Act) provides that certain rights and obligations under European Union law continue to be recognised in domestic law after the United Kingdom (UK)'s exit from the European Union (EU). The same Act incorporates EU regulations and certain decisions into domestic law as they stand at exit day. Together, this retained and incorporated legislation is referred to as 'retained EU law'. As part of this process, certain state aid rules from the Treaty on the Functioning of the European Union (TFEU) and related EU regulations and decisions continue to be recognised or have effect in UK law. The Secretary of State has made regulations under section 8 of the Withdrawal Act, the State Aid (EU Exit) Regulations 2019 (the Regulations), to prevent, remedy or mitigate failures of retained EU law to operate effectively, or any other deficiency in retained EU law, which includes conferring on the Competition and Markets Authority (CMA) powers to apply and enforce the state aid rules from the TFEU and other retained EU law in respect of aid granted by UK aid grantors. The Regulations set out, among other things, the CMA's powers and obligations to investigate and decide whether to approve measures that constitute state aid given to undertakings by UK aid grantors.

## 2. Introduction

### Purpose and scope of this guidance

- 2.1 The CMA has set out in this guidance document general information on the processes the CMA proposes to use, in the event that the UK leaves the EU without a deal and without an implementation period, when examining and investigating notified aid measures<sup>1</sup> under the Regulations; the information required to be submitted to the CMA for aid benefiting from a block exemption; and the transparency and annual reporting requirements for notified aid and aid exempt from notification.<sup>2</sup>
- 2.2 This guidance is not intended to cover all aspects of the state aid regime in the UK and the CMA intends to publish further guidance dealing with other aspects in due course. In particular, this guidance does not cover in detail how the CMA will deal with complaints regarding alleged unlawful aid or alleged misuse of aid or investigations regarding existing aid measures. However, the proposed process for investigations set out in this guidance is likely to be relevant to all investigations conducted by the CMA under the Regulations.
- 2.3 This guidance should be read alongside the CMA publication *Transparency and Disclosure: statement on the CMA's policy and approach (CMA6)*.<sup>3</sup> However, CMA6 only applies to state aid cases to the extent that it is not inconsistent with this guidance document or other CMA statements of policy,<sup>4</sup> the Regulations, the Withdrawal Act or any other enactment or rule of law relevant to examinations or investigations of aid by the CMA.
- 2.4 This guidance will take effect from exit day<sup>5</sup> if the UK leaves the EU without a deal and without an implementation period and represents the CMA's proposed practice as at the date of the publication of this document. Given that the development of the CMA's state aid regime is at an early stage, the CMA expects that it will be necessary to revise this guidance to reflect the CMA's emerging experience as well as any changes in best practice and the law.

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<sup>1</sup> Unless otherwise specified, in this guidance aid measure refers to both aid schemes and grants of individual aid.

<sup>2</sup> Aid exempt from notification is set out in regulation 4 of the Regulations.

<sup>3</sup> Available [here](#).

<sup>4</sup> Under regulation 51 of the Regulations, the CMA must, on or before exit day, publish as statements of policy the English language versions of the guidance listed in the Table in Schedule 7 to the Regulations.

<sup>5</sup> Being 29 March 2019, the day the European Communities Act 1972 is repealed under the Withdrawal Act.

- 2.5 The CMA will apply this guidance flexibly. This means that the CMA will have regard to this guidance when considering relevant state aid notifications but that the CMA may take a different approach when the facts of the case justify doing so. For example, the CMA may depart from the processes set out in this guidance if to do so is necessary to assess a possible aid measure as a matter of urgency.
- 2.6 This document is not a definitive statement of, or substitute for, the law itself and the legal tests which the CMA applies when assessing measures which may constitute state aid. Reference should be made to the relevant legislation and guidelines and, if necessary, independent legal advice should be sought.

### 3. The legal framework

- 3.1 The legal framework that applies to the examination and investigation of notified state aid measures is described below.
- 3.2 Under sections 3 and 4 of the Withdrawal Act, certain provisions of the TFEU relating to state aid, as well as other EU state aid regulations and decisions, continue to be recognised or have effect in domestic law. Under section 8 of the Withdrawal Act, the Secretary of State may make regulations (statutory instruments) to correct any failure of retained EU law to operate effectively, or any other deficiency of retained EU law. The Regulations were made by the Secretary of State under section 8 of the Withdrawal Act and make certain modifications to the retained EU law relating to state aid.
- 3.3 Under the modified form<sup>6</sup> of Article 107(1) of the TFEU, any aid granted by the state or through state resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between the UK and the European Union, be prohibited unless it is approved in accordance with the modified form of Article 108(3) of the TFEU.

#### Obligation to notify the CMA

- 3.4 Under the modified form<sup>7</sup> of Article 108(3) of the TFEU, the CMA shall be notified of any plans to grant or alter aid. The aid grantor concerned shall not put its proposed measures into effect unless the aid is approved by the CMA under Article 93, 106(2) or 107(2) or (3) of the TFEU. The Regulations set out the obligation to notify the CMA of plans to grant new aid and the CMA's powers and obligations to investigate and decide whether to approve measures that constitute state aid, including new and existing aid.<sup>8</sup>
- 3.5 There are some categories of aid which, provided the relevant measure fulfils the characteristics of that aid, the CMA must approve<sup>9</sup> or are deemed to have been approved (and are therefore exempt from notification).<sup>10</sup> Article 107(3) of the TFEU gives the CMA discretion to approve certain other categories of aid. Under regulation 5(1) of the Regulations, the CMA may approve aid

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<sup>6</sup> Modified by regulation 3(2) and (4) of the Regulations.

<sup>7</sup> Modified by regulation 3(2) and (4) of the Regulations.

<sup>8</sup> Note that in relation to existing aid, the CMA must decide whether the aid could be approved if it was notified. See regulation 27(2) of the Regulations.

<sup>9</sup> Article 107(2) TFEU as modified by regulation 3 of the Regulations.

<sup>10</sup> Regulation 4(3) of the Regulations.

under Article 107(3) of the TFEU only if it is satisfied that any adverse effects on trade and competition are justified by the objective of the aid.

## **Circumstances where no notification is required**

- 3.6 Regulation 4 and Schedules 1 to 2 to the Regulations set out the aid which is exempt from notification under the Regulations. For more information on the relevant reporting and monitoring requirements for aid that is exempt from notification, please see section 9 of this guidance.
- 3.7 Regulation 57 modifies the notification requirement for the granting of state aid in urgent cases. This allows, in certain limited circumstances and subject to certain conditions, for aid grantors to grant aid without first obtaining CMA approval. This applies to aid that is granted to:
- (a) remedy a serious disturbance in the economy of the UK;
  - (b) preserve financial stability; or
  - (c) prevent serious social hardship.<sup>11</sup>
- 3.8 Before granting such aid without CMA approval, under the Regulations the aid grantor must have regard to any relevant CMA statement of policy and consider that the aid is capable of being approved by the CMA under any such statement of policy.<sup>12</sup> While CMA approval is not a prior condition to granting such aid, the aid grantor must still inform the CMA before granting the aid.<sup>13</sup> As soon as practicable after granting the aid, the aid grantor must make a notification to the CMA, using the processes set out in this guidance.<sup>14</sup>

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<sup>11</sup> Regulation 57(1) of the Regulations.

<sup>12</sup> Regulation 57(3)(b) and (c) of the Regulations.

<sup>13</sup> Regulation 57(3)(a) of the Regulations.

<sup>14</sup> Regulation 57(4) of the Regulations.



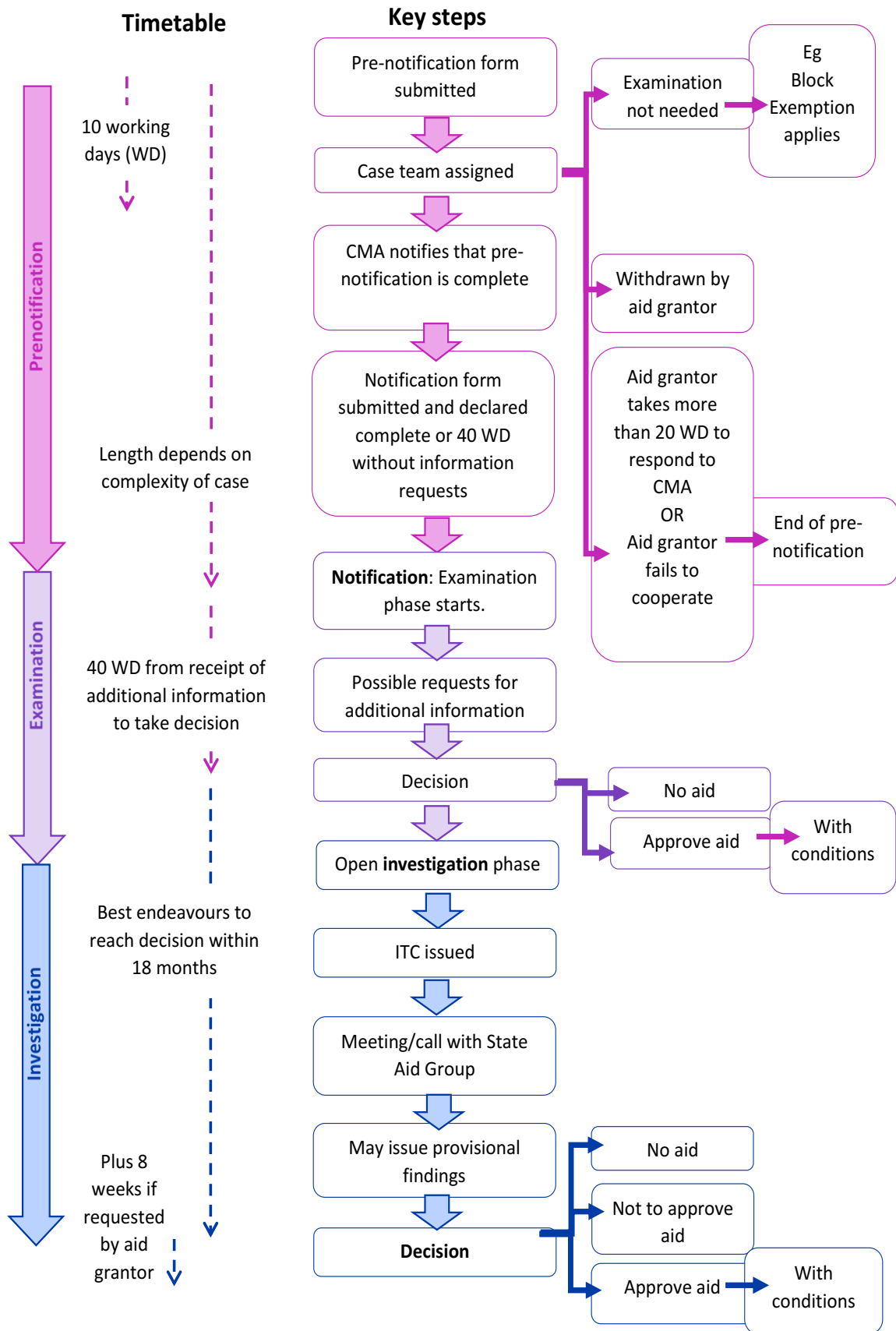
## 4. The relevant parties in state aid cases

- 4.1 The aid grantor is the government department, public body or other organisation which plans to grant or has granted aid and which is obliged to notify the CMA under the Regulations. Government and the Devolved Administrations will provide aid grantors with further advice on how notifications will be organised before they reach the CMA, in particular through the use of central coordinators. Central coordinators may include the Department for Business, Energy and Industrial Strategy (BEIS), the Department for Environment, Food and Rural Affairs (Defra), the Department for Transport (DfT), the Department for the Economy, State aid Unit, Northern Ireland, the Scottish Government State Aid Team (SGSAT) and the Welsh Government State Aid Unit (WGSAU).
- 4.2 The Scottish and Welsh Governments have requested that the CMA's primary contact be the SGSAT and the WGSAU respectively. The Scottish and Welsh Governments require that aid grantors who are devolved bodies in Scotland and Wales only engage with the CMA via the SGSAT and WGSAU respectively. Given this arrangement, references to communications and administrative arrangements between the CMA and the aid grantor in this guidance should where appropriate be read, where the matter relates to Scotland, as occurring via the SGSAT and, where the matter relates to Wales, via the WGSAU. Aid grantors who are devolved bodies in Northern Ireland should contact the Department for the Economy, State aid Unit for advice before commencing the state aid notification process.
- 4.3 The intended beneficiary of notified aid and other interested parties may be contacted by the CMA at relevant stages of a state aid examination and investigation. In particular, please see the following paragraphs of this guidance: 7.5 to 7.7 on the invitation to comment, 7.9 to 7.12 on market information requests and 7.13 on meetings or calls with the state aid decision makers.

## **5. Pre-notification and informal discussions**

### **Purpose of pre-notification and stages of a case**

- 5.1 The primary purpose of pre-notification is to assist the aid grantor in preparing a complete notification. The CMA will work collaboratively with the aid grantor and any central coordinator to identify what information should be submitted when the measure is formally notified to ensure that it is complete. Successful pre-notification engagement should minimise the need for the CMA to request additional information at the notification stage, and consequent delays in the decision-making process.
- 5.2 Pre-notification is a voluntary step in the state aid notification process. However, the CMA encourages aid grantors to pre-notify all notifiable measures, even if a particular measure appears not to pose any particular difficulties. Pre-notification is highly recommended for measures which are complex or novel in nature.
- 5.3 The diagram below provides a high-level summary of the principal stages of a state aid case.



## Beginning a new pre-notification

- 5.4 An aid grantor should follow any procedures agreed in their jurisdiction for commencing pre-notification discussions with the CMA.<sup>15</sup> The pre-notification phase begins when the relevant form (a Pre-Notification form) is submitted to the CMA through the CMA's online notification system.<sup>16</sup> The information requested in a Pre-Notification form is the same as that requested in the form to be used when the notification is formally submitted (the Notification form). Pre-Notification forms should be as complete as possible, as this information will form the basis for discussions with the CMA.
- 5.5 It is for aid grantors and the relevant central coordinators to discuss how the completion of the Pre-Notification form will be managed and organised before submission to the CMA. For example, the online notification system allows a draft Pre-Notification form to be sent to the relevant central coordinator for advice before submission to the CMA. The Pre-Notification form will not be accessible to CMA officials until it is submitted to the CMA for review using the online system.

## Duration

- 5.6 It is not possible to predict how long the pre-notification phase will last, as this will vary depending on a range of factors, including the nature and complexity of the notified measure, the priority assigned to the case and the CMA resources available to deal with the case. By way of context, the European Commission's Code of Best Practices for the conduct of State aid control procedures<sup>17</sup> states that pre-notification contacts should not, as a general rule, last more than six months. Once the case team has carried out an initial review of the Pre-Notification form, it will be in a position to discuss possible timings with the aid grantor. In particular, the CMA will discuss the relative priority of the case with the aid grantor and the relevant central coordinator.

## Pre-notification contacts with the CMA

- 5.7 Once a new Pre-Notification form has been received, the CMA will generally appoint a case team within 10 working days. The CMA will inform the aid grantor (usually by email) once a case team has been appointed. The CMA may decline to appoint a case team if it believes that the Pre-Notification form

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<sup>15</sup> See for example [Department for the Economy Northern Ireland – State aid advice](#)

<sup>16</sup> [To add link to notification system when live].

<sup>17</sup> Commission Notice on a Best Practices Code on the conduct of State aid control proceedings (2018/C 253/05).

has been submitted prematurely (without prejudice to the aid grantor's right to submit a formal Notification form at any point).

- 5.8 During the course of the pre-notification phase, the CMA may request that further information, including documentation, and clarification be provided by the aid grantor. The CMA may also request to meet with the aid grantor and any identified beneficiaries, although this may not be necessary in many cases.

### **Conclusion of the pre-notification phase**

- 5.9 A successful pre-notification phase (as opposed to one that is not completed, as described in the next paragraph) will end when the CMA informs the aid grantor of its belief that the measure is substantially ready to be notified and that the pre-notification phase has, accordingly, concluded. At that point, the aid grantor will be expected to submit a full Notification form on the online notification system. The online notification system will allow the aid grantor to pre-populate a new Notification form with the content of the most recent version of the Pre-Notification form on the online notification system.
- 5.10 It may be necessary for the CMA to disband a case team allocated to a case in pre-notification if, in the opinion of the case team, the aid grantor has failed to cooperate fully with the CMA, for example by providing incomplete information or not responding to questions from the CMA. In particular, the CMA will cease pre-notification discussions if the aid grantor has failed to respond to a CMA request for information or clarification within a period of 20 working days (unless a longer period has been agreed with the CMA). For its part, the aid grantor is entitled to withdraw its Pre-Notification form at any time or to proceed to the submission of a formal Notification form (in which case, the pre-notification phase will end automatically).

### **Preliminary assessments**

- 5.11 It will not be the CMA's usual practice to provide the aid grantor with any preliminary assessment of the measure's compatibility with substantive state aid law. However, at the request of the aid grantor, the CMA may at its discretion agree to provide such an assessment in a particular case, having regard to the importance and urgency of the measure and the CMA's resource availability at the time of the request. The provision and form of such preliminary assessments are discretionary and any such assessment will not bind the CMA.

## **Informal discussions**

- 5.12 The CMA is in principle willing to discuss with potential aid grantors measures which are at an early stage of being developed but which may amount to state aid. Such discussions may cover whether the planned measure is likely to be considered state aid and whether it is likely to give rise to any objections under Article 107(1) of the TFEU.
- 5.13 Such discussions will not in any way bind the CMA and are not a substitute for potential aid grantors making their own assessment of the measure against state aid rules or taking appropriate advice, including from relevant central coordinators.
- 5.14 The possibility of the CMA engaging in such discussions is subject to the nature of the proposed measure, the stage of its development and the CMA's available resources.

## 6. Examination of notified aid measures

### Purpose of the examination

- 6.1 The examination begins with the submission by the aid grantor of a complete Notification form to the CMA concerning a proposed aid measure (whether an aid scheme or a grant of individual aid).<sup>18</sup>
- 6.2 Under the Regulations, the CMA is required to examine the notified aid measure and, having done so, to make one of the following decisions:<sup>19</sup>
- (a) that the notified measure does not constitute aid;
  - (b) to approve the aid; or
  - (c) to open an investigation – if the CMA is '*not satisfied that it can take a decision*' that the measure does not constitute aid or to approve the aid.

### Commencement of examinations

- 6.3 An aid grantor should follow any procedures agreed in their jurisdiction for preparing a Notification form for submission on the online notification system.<sup>20</sup> If a Pre-Notification form in respect of the aid has already been submitted, it will be possible to pre-populate the Notification form with information contained in the most recent version of the Pre-Notification form.
- 6.4 It is for aid grantors and the relevant central coordinators to discuss how completion of the Notification form will be organised and managed before it is submitted to the CMA. For example, the online notification system can be used to share a draft Notification form between the central coordinator and aid grantor. The online notification system allows a central coordinator to provide advice to aid grantors on completion of the form, suggest edits and request further supporting information. When the Notification form is complete, the Notification must be submitted to the CMA using the online system. The Notification form will not be accessible to CMA officials before it has been submitted.
- 6.5 It is important that the aid grantor and relevant central coordinators take all reasonable steps to ensure that the Notification form is completed as

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<sup>18</sup> Please also refer to the CMA's notice on the form and content of notifications for the purposes of regulation 7 of the Regulations [to be published in due course].

<sup>19</sup> Regulation 8 of the Regulations.

<sup>20</sup> See [Department for the Economy Northern Ireland – State aid advice](#)

comprehensively and accurately as possible, before it is submitted to the CMA. The provision of incomplete or inaccurate information to the CMA is likely to lead to delays in the examination of the aid, while the CMA requests additional information from the aid grantor. Under the Regulations, the CMA may also, in certain circumstances, decide to revoke a decision to approve aid,<sup>21</sup> if the CMA subsequently considers that it may have been provided with incorrect or misleading information during the examination or investigation which may have been a determining factor for the decision.<sup>22</sup>

- 6.6 The CMA will review the submitted Notification form and decide whether any additional information is required from the aid grantor.<sup>23</sup> If so, it will inform the aid grantor who will be required to submit the additional information through the online notification system within a set period.

### **Time limit for examinations**

- 6.7 The CMA has 40 working days from the first working day after the CMA notifies the aid grantor that the Notification form is complete<sup>24</sup> to make its decision under regulation 8 (as set out in paragraph 6.2 above). A notification will be deemed to be complete for these purposes if the CMA does not send an information request to the aid grantor within 40 working days from either:

- (a) the first working day following receipt of a Notification form; or
- (b) the first working day following receipt of any additional information requested by the CMA (noting that the CMA may request additional information more than once).<sup>25</sup>

### **Case team**

- 6.8 The CMA expects that the case team for the pre-notification phase will generally be retained for the examination phase. However, it may be necessary to expand or otherwise change the composition of the case team during the course of a particular case.

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<sup>21</sup> Or a decision that the measure does not constitute aid. Regulation 34.

<sup>22</sup> Regulation 34(1)(b) of the Regulations.

<sup>23</sup> Regulation 7(2) of the Regulations.

<sup>24</sup> Regulation 7(4)(a) of the Regulations.

<sup>25</sup> Regulation 7(4)(b) of the Regulations. This means that the sending of an additional information request resets the time period from which 40 working days is calculated.



## **State of play and other meetings**

- 6.9 During the examination of the notified aid, it will not be the CMA's usual practice to schedule a state of play meeting with the aid grantor. However, the CMA will arrange such a meeting if requested by the aid grantor at a relatively early stage in the examination phase. The CMA may wish to invite the aid beneficiary to attend any state of play meetings.
- 6.10 The CMA may also itself request to meet with the aid grantor (possibly together with the beneficiary) in order for the aid grantor to provide clarification on any issues arising from the notification.

## **Statements of policy and Secretary of State guidance**

- 6.11 One outcome of the examination phase is that the CMA decides to approve the aid. In making its decision, the CMA will have regard to any relevant CMA statement of policy and Secretary of State guidance which have been published.

## **Threshold for opening an investigation**

- 6.12 The CMA must open an investigation into a notified aid measure if, following examination, it is 'not satisfied that it can take a decision' either that the measure does not constitute aid or otherwise to approve the aid.<sup>26</sup>

## **Decision making**

- 6.13 The decision at the conclusion of the examination phase (ie that there is no aid, that the aid can be approved or that an investigation will be opened) will generally be taken by the Senior Director for state aid. However, there may be cases in which the decision is taken by other another senior member of staff.<sup>27</sup>

## **Publication of decisions**

- 6.14 As soon as reasonably practicable after taking a decision, the CMA will publish on its website the decision and the reasons for the decision.<sup>28</sup>

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<sup>26</sup> Regulation 8 of the Regulations.

<sup>27</sup> In either case the power to take such decision is delegated by the CMA Board.

<sup>28</sup> Regulation 10 of the Regulations.

## 7. Investigation of notified aid measures

### Decision-making

- 7.1 It is important for the effectiveness and credibility of the new UK state aid regime that decision-making in state aid investigations is – and is seen to be – robustly independent and undertaken by people with the public standing to take difficult decisions without fear or favour, in accordance with the law and the evidence.
- 7.2 The CMA intends to adopt the following decision-making structure for decisions taken under the Regulations, recognising that this decision-making structure may need to be adjusted to take into account the legal framework in place at the relevant time, as well as the CMA’s other priorities and the individuals available to take decisions at any one time.
- 7.3 The CMA expects that the investigation of a notified aid measure will be led by a State Aid Decision Group. The CMA’s aim is that each such Group be made up of individuals with experience in a judicial capacity of decision-making in complex and high-profile cases and to this end the CMA is seeking to expand its Panel. The State Aid Decision Group for each case will be nominated for this purpose at the time the investigation is opened. Appointments of members of the State Aid Decision Group will, in common with the CMA’s other tools, be made in accordance with the CMA’s conflict of interest policy and applicable law regarding conflicts of interest.
- 7.4 The State Aid Decision Group will lead the investigation and take a final decision. The Group will be expected to take its decision independently from the CMA’s Board and other CMA decision-making structures. In most cases, the Group for the case will consist of three members. The Group will be assisted by a case team that may, for efficiency reasons, include some members of the case team that worked on the examination phase of the aid measure, including the Director. The case team will be the primary point of contact for the aid grantor.

### Invitation to comment

- 7.5 If it is decided to open an investigation, the CMA must allow the aid grantor and other interested parties an opportunity to comment<sup>29</sup> and will do so by

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<sup>29</sup> Regulation 10 of the Regulations.

publishing an invitation to comment on its website. An interested party is a person, undertaking or association of undertakings whose interests might be affected by the granting of aid, and may in particular include beneficiaries, competing undertakings and trade associations.<sup>30</sup>

- 7.6 The invitation to comment will be published on the CMA's website at the same time as the reasons for the decision to open the investigation are published and the CMA may decide to also send the invitation directly to certain interested parties. Under the Regulations, the aid grantor and interested parties will ordinarily have 20 working days, starting with the first working day after the day on which the CMA publishes its reasons for opening an investigation to make representations to the CMA (although the CMA may decide to extend this time period if it considers it appropriate to do so).<sup>31</sup>
- 7.7 The CMA must send any representations it receives to the aid grantor, except it may withhold: (a) any representations to the extent that they contain confidential information; and (b) the identity of an interested party or person who sent representations, if requested to do so by that interested party or person on grounds of potential damage.<sup>32</sup> The aid grantor will ordinarily be given 20 working days in which to provide a response to the representations to the CMA, starting with the first working day after the day on which the aid grantor receives the representations.<sup>33</sup>

### **Time limit for taking a decision**

- 7.8 Under the Regulations, the CMA must use its best endeavours to take a decision within 18 months starting with the date on which the decision to open the investigation was taken.<sup>34</sup> However, the CMA expects to complete some investigations more quickly and will do its utmost to complete investigations as expeditiously as possible. If the CMA fails to take a decision within 18 months, the aid grantor can request that the CMA take a decision on the basis of the information available to it,<sup>35</sup> in which case the CMA must take such a decision within eight weeks starting on the day after the day on which the CMA receives the request from the aid grantor.<sup>36</sup>

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<sup>30</sup> Regulation 2 of the Regulations.

<sup>31</sup> Regulation 60(2) of the Regulations.

<sup>32</sup> Regulation 10(3) of the Regulations.

<sup>33</sup> Regulation 10(4) of the Regulations.

<sup>34</sup> Regulation 13(1) of the Regulations.

<sup>35</sup> Regulation 13(2) of the Regulations.

<sup>36</sup> Regulation 13(3) of the Regulations.

## The CMA's investigatory powers

- 7.9 The CMA may request information that it requires for the purposes of its investigation informally (that is, without the use of its statutory information gathering powers) where appropriate. However, under the Regulations the CMA has the power to request a person (other than the aid grantor) provide market information to the CMA within a set period (a 'market information request') if:
- (a) any information provided by the aid grantor is 'not sufficient' to enable the CMA to take a decision; and
  - (b) the market information is reasonably required to take a decision.<sup>37</sup>
- 7.10 In all cases, the CMA must send a copy of the request to the aid grantor at the same time as sending it to the person it is requesting the information from and the CMA will notify the aid grantor why the information has been requested. If the person from whom the information is requested is, or will be, a beneficiary, the CMA must also give reasonable notice to the aid grantor of its intention to issue the market information request.
- 7.11 If a person does not comply with a market information request, the CMA may make an order (a 'market information order') requiring the person to send the market information within a set period.<sup>38</sup> A copy of the order must be sent to the aid grantor at the same time and the CMA will inform the aid grantor why the order has been made.<sup>39</sup>
- 7.12 The CMA may impose a financial penalty (ie a fine) on a person if it considers that the person has (without reasonable excuse) provided incorrect or misleading information in response to a market information request or market information order, or where the person has failed to comply with, or has provided incomplete information in response to, a market information order.<sup>40</sup> The CMA will in due course publish a separate statement of policy in relation to its use of financial penalties in state aid cases.

## Meeting or call with the State Aid Decision Group

- 7.13 The CMA will offer an aid grantor the opportunity to address in person or by telephone the State Aid Decision Group prior to the CMA issuing its

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<sup>37</sup> Regulation 30(2) of the Regulations.

<sup>38</sup> Regulation 31 of the Regulations.

<sup>39</sup> Regulation 31(4) of the Regulations.

<sup>40</sup> Regulation 32 of, and Schedule 5 to, the Regulations.

provisional findings. The CMA may wish to request that the intended beneficiary also attends.

## **The CMA's provisional findings**

7.14 Prior to the publication of a final decision, the CMA may prepare provisional findings to be issued to the aid grantor.<sup>41</sup> In such cases, the aid grantor will be given a reasonable opportunity to review and comment on the provisional findings in writing.

## **Final decision**

7.15 At the conclusion of the investigation stage, the State Aid Decision Group must decide whether the notified measure constitutes aid and, if so, whether to approve the aid. In deciding whether to approve the aid, the CMA must have regard to any relevant CMA statement of policy and Secretary of State guidance which have been published.

7.16 The CMA must notify the aid grantor of the decision and the reasons for the decision in advance of publication to provide an opportunity for the aid grantor to identify confidential information.<sup>42</sup>

## **Confidentiality and publication**

7.17 A person who sends information to the CMA must indicate whether any information it is sending is considered to be confidential and the reasons why it considers such information to be confidential.<sup>43</sup> Information is confidential if the CMA thinks its disclosure is contrary to the public interest, might significantly harm the legitimate business interests of the undertaking to which it relates, or might significantly harm the interests of an individual to whose private affairs the information relates.<sup>44</sup> If certain information is considered to be confidential, a separate non-confidential version of the information must be sent to the CMA. If a deadline applies to the sending of information, that deadline also applies to the sending of a non-confidential version of the

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<sup>41</sup> For the avoidance of doubt, this should be distinguished from the process by which the CMA notifies the aid grantor of its final decision and reasons for the decision in advance of publication in order for the aid grantor to identify confidential information (regulation 36(3) of the Regulations).

<sup>42</sup> Regulation 36(3) of the Regulations.

<sup>43</sup> Regulation 64 of the Regulations.

<sup>44</sup> Regulation 2 of the Regulations.

information. Such information will be handled by the CMA in accordance with Part 9 of the Enterprise Act 2002.

- 7.18 If the CMA decides that information provided by a person and indicated as confidential is not to be treated as confidential information, the CMA will notify the person and, if the CMA intends to disclose the information, give the person at least four weeks' notice before the disclosure.<sup>45</sup>
- 7.19 As soon as is reasonably practicable after taking its final decision, the CMA must publish that decision on its website, as well as the reasons for the decision.<sup>46</sup> The CMA is not required to publish both the decision and the reasons for the decision at the same time if it is not practicable to do so.<sup>47</sup> The CMA will notify any interested party who sent representations that the decision has been published.

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<sup>45</sup> Regulation 64(4) of the Regulations.

<sup>46</sup> Regulation 12 of the Regulations.

<sup>47</sup> Regulation 36(2) of the Regulations.

## **8. Aid granted by Act of Parliament**

- 8.1 Regulation 4(5) of, and Schedule 3 to, the Regulations make provision for the consideration by the CMA of aid granted by Act of Parliament which, under the Regulations, is subject to a different process to other types of state aid.
- 8.2 The CMA may be requested to, or may on its own initiative in certain circumstances, consider and prepare an advisory opinion in relation to proposals to grant aid by Act of Parliament and aid in Acts of Parliament passed after exit day.

## 9. Aid that is exempt from notification

### Introduction

- 9.1 Under Regulation 4, many measures will be exempt from the requirement for notification to the CMA. Regulation 4 applies to:
- (a) agricultural aid granted in accordance with Schedule 1 to the Regulations;
  - (b) aid granted in respect of an outstanding amount of a specified EU project in accordance with Schedule 2 to the Regulations;
  - (c) aid which meets the requirements of the *de minimis* regulations;<sup>48</sup>
  - (d) aid granted in accordance with the road and rail regulation;<sup>49</sup>
  - (e) aid granted in accordance with the SGEI decision;<sup>50</sup> and
  - (f) aid granted in accordance with a block exemption regulation,<sup>51</sup> namely:
    - i. the General Block Exemption Regulation (GBER);<sup>52</sup>
    - ii. the Agricultural Block Exemption Regulation (ABER);<sup>53</sup> or
    - iii. the Fisheries Block Exemption Regulation (FBER).<sup>54</sup>
- 9.2 However, there are requirements on aid grantors to provide reports, containing summary information about the aid (Summary Reports) and to maintain detailed records (to allow monitoring of compliance by the CMA) in

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<sup>48</sup> The *de minimis* regulations are defined in regulation 2 of the Regulations.

<sup>49</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70.

<sup>50</sup> Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.

<sup>51</sup> The CMA will continue with the block exemption regime established by the European Commission, with some changes where necessary.

<sup>52</sup> Commission Regulation (EU) No 651/2014 of 7 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the TFEU.

<sup>53</sup> Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the TFEU.

<sup>54</sup> Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the TFEU.



respect of the exempt aid in categories (c) to (f) above. The requirements placed on an aid grantor for reporting the aid and other transparency requirements differ depending on which of the exemptions applies.

- 9.3 This guidance describes the reporting and monitoring requirements under the Regulations for each of these categories of aid exempt from notification. Failure to comply with the reporting and monitoring requirements may be taken into account by the CMA when considering whether to open an investigation into an aid measure, for example during a consideration of alleged unlawful aid,<sup>55</sup> or could delay approval of future aid measures.
- 9.4 This guidance does not provide advice on which measures fulfil the conditions to be exempt from notification. Central coordinators have previously given, and will continue to give, advice on the suitability of a measure to be granted as exempt aid. An aid grantor may wish to discuss this with the relevant central coordinator or seek independent advice.

### **Aid granted in accordance with a block exemption**

- 9.5 This section outlines the requirement to provide Summary Reports for aid granted in accordance with the GBER, ABER and FBER. Providing Summary Reports is important as it ensures aid grantors keep detailed records of measures. Not only is this vital for compliance checking (carried out through monitoring exercises) but also for public accountability and transparency.

#### ***Creating and submitting a Summary Report***

- 9.6 If aid is granted under a block exemption regulation, the Regulations require that the aid grantor send the CMA a Summary Report, containing the specified summary information about the aid,<sup>56</sup> including an internet link to the full text of the aid measure.<sup>57</sup>
- 9.7 The CMA has published a notice on the form and summary information required to be submitted.<sup>58</sup> The aid grantor must submit the information using the Summary Report form in the online notification system.

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<sup>55</sup> See paragraphs 4(6), 6(5), 8(5) and 10(3) of Schedule 6 to the Regulations.

<sup>56</sup> Paragraph 1 of Schedule 6 to the Regulations.

<sup>57</sup> In relation to the ABER and FBER, the full text of the measure must make explicit reference to the title and relevant provisions of the ABER or the FBER.

<sup>58</sup> [To add link to notice when published]

9.8 The online notification system allows the Summary Report to be sent to the central coordinator. When the central coordinator receives the request, they can review the Summary Report and either: (a) countersign the report and submit it to the CMA; or (b) return the report to the aid grantor to make corrections.<sup>59</sup>

### ***Deadlines for submission***

9.9 The aid grantor must send the information:

(a) in relation to the GBER and the FBER, within a period of 20 working days starting with the first working day after the day on which the aid scheme enters into force or the ad hoc aid is granted (as appropriate);<sup>60</sup>

(b) in relation to the ABER, at least 10 working days before the day the aid scheme enters into force or the ad hoc aid is granted (as appropriate).<sup>61</sup>

### ***Confirmation of receipt by the CMA***

9.10 In relation to ABER Summary Reports only, the CMA must send the aid grantor a notice of receipt with an identification number of the aid, within 10 working days starting with the working day after receipt of the summary information.<sup>62</sup>

9.11 Shortly after receiving a Summary Report, the CMA will publish it. The CMA will alert the aid grantor and the relevant central coordinator when this information is published.

### ***Monitoring***

9.12 The CMA may carry out monitoring of compliance with the conditions of the relevant block exemption regulation. The Regulations require aid grantors to maintain detailed records of block exempted aid.<sup>63</sup>

9.13 These records should contain all the information and supporting documentation necessary to establish that the conditions in the block

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<sup>59</sup> The central coordinator may make small amendments on the form itself.

<sup>60</sup> Paragraph 1(2)(b) of Schedule 6 to the Regulations.

<sup>61</sup> Paragraph 1(2)(c) of Schedule 6 to the Regulations.

<sup>62</sup> Paragraph 1(3) of Schedule 6 to the Regulations.

<sup>63</sup> In accordance with paragraph 4 of Schedule 6 to the Regulations.

exemption regulation are fulfilled.<sup>64</sup> These records must be kept for 10 years.<sup>65</sup>

- 9.14 In relation to aid schemes under the GBER it is the responsibility of the aid grantor to verify (if no ex ante verification is performed) ex post and on a sample basis, that all compatibility conditions are met in accordance with the GBER.<sup>66</sup> The aid grantor must maintain detailed records of the verifications for at least 10 years from the date on which the last aid was granted under the scheme.<sup>67</sup>
- 9.15 The CMA may request an aid grantor to provide any information and supporting documentation that the CMA considers necessary to monitor compliance with the conditions of a block exemption regulation.<sup>68</sup> An aid grantor must provide the requested information and documentation within 20 working days from the date of the receipt of request, unless the request specifies a longer deadline.<sup>69</sup>

### **Aid exempt under the SGEI decision**

- 9.16 Aid is exempt from notification if it can be granted in accordance with the SGEI decision.<sup>70</sup> Aid grantors must comply with certain transparency and reporting requirements in relation to aid granted under the SGEI decision.

#### ***Transparency of aid under the SGEI decision***

- 9.17 If the compensation is over €15 million and is granted to an undertaking that also has activities outside the scope of the service of general economic interest, the aid grantor must publish:<sup>71</sup>
- (a) the entrustment act or a summary which includes the elements listed in Article 4 of the SGEI decision; and

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<sup>64</sup> Paragraph 4(1) of Schedule 6 to the Regulations.

<sup>65</sup> Paragraph 4(2) of Schedule 6 to the Regulations. The 10 years runs from the date on which ad hoc aid was last granted or the last aid was granted under the measure.

<sup>66</sup> Paragraph 4(3)(a) of Schedule 6 to the Regulations.

<sup>67</sup> Paragraph 4(3)(b) of Schedule 6 to the Regulations.

<sup>68</sup> Paragraph 4(4) of Schedule 6 to the Regulations.

<sup>69</sup> Paragraph 4(5) of Schedule 6 to the Regulations.

<sup>70</sup> Article 108(3) of the TFEU and regulation 4(3) of the Regulations. SGEI decision means Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the TFEU to state aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.

<sup>71</sup> Paragraph 7 of Schedule 6 to the Regulations.

- (b) the amounts of aid granted to the undertaking on a yearly basis.

### **Reports under the SGEI decision**

9.18 The aid grantor must send the CMA reports every two years on aid granted under the SGEI decision.<sup>72</sup> The report must provide a detailed overview of the application of the SGEI decision including<sup>73</sup>:

- (a) a description of the application of the SGEI decision to the services falling within its scope, including in-house activities;
- (b) the total amount of aid granted in accordance with the SGEI decision, with a breakdown by the economic sector of the beneficiaries;
- (c) an indication of whether, for a particular type of service, the application of the SGEI decision has given rise to difficulties or complaints by third parties; and
- (d) any other information concerning the application of the SGEI decision required by the CMA and that has been notified to the aid grantor in due time before the report is to be sent.

9.19 This requirement applies to aid granted under the SGEI decision on or after exit day. The first report must be sent within two years of the aid being granted and subsequent reports must be sent at intervals of no more than two years.<sup>74</sup>

### **Monitoring**

9.20 The aid grantor is responsible for maintaining records of the aid and any supporting information necessary to determine that the measure has been granted in accordance with the SGEI decision.<sup>75</sup> These records should be maintained for at least 10 years after the period of entrustment has ended.<sup>76</sup>

9.21 The CMA may monitor compliance with the SGEI decision. In such circumstances, the CMA may request the aid grantor to provide any

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<sup>72</sup> Paragraph 9 of Schedule 6 to the Regulations.

<sup>73</sup> For the different categories of services referred to in Article 2(1) of the SGEI decision.

<sup>74</sup> Paragraph 9(3) of Schedule 6 to the Regulations.

<sup>75</sup> Paragraph 8 of Schedule 6 to the Regulations.

<sup>76</sup> Paragraph 8(2) of Schedule 6 to the Regulations.

information the CMA requires to monitor compliance with the conditions of the SGEI decision.<sup>77</sup>

## ***De minimis* aid**

9.22 If an aid grantor grants aid that is exempt from the requirement for notification to the CMA under a *de minimis* regulation,<sup>78</sup> the aid grantor must maintain detailed records with the information and supporting documents necessary to establish that the conditions in the relevant *de minimis* regulation are fulfilled.<sup>79</sup>

9.23 The CMA may request an aid grantor to provide any information and supporting documentation that the CMA considers necessary to monitor compliance with the conditions of a *de minimis* regulation. An aid grantor must provide the requested information and documentation within 20 working days from the date the request was received, unless the request specifies a longer deadline.<sup>80</sup>

## **Road and rail regulation**

9.24 The CMA may request an aid grantor to provide any information and supporting documentation that the CMA considers necessary to monitor whether the aid has been granted in accordance with the road and rail regulation.<sup>81</sup> If such a request is made, an aid grantor must provide the information within three months, unless the request specifies a longer deadline.<sup>82</sup>

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<sup>77</sup> Paragraph 8(3)-(4) of Schedule 6 to the Regulations. This information must be sent within a time period set by the CMA.

<sup>78</sup> The *de minimis* regulations are defined in regulation 2 to the Regulations.

<sup>79</sup> Aid grantors should also be aware of their obligations under the *de minimis* regulations. For example, Article 6(1) of Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid requires that aid grantors obtain a declaration from beneficiaries of aid granted under that *de minimis* regulation about any other *de minimis* aid received during the previous two fiscal years and the current fiscal year.

<sup>80</sup> Paragraph 6 of Schedule 6 to the Regulations.

<sup>81</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70.

<sup>82</sup> Paragraph 10 of Schedule 6 to the Regulations.

## 10. Transparency for high value awards of individual aid

- 10.1 Aid given to companies should be transparent. Transparency means giving market participants relevant information about those public interventions that might have potentially distortive effects on competition and trade. This transparency improves the accountability of aid grantors and aid beneficiaries by making key data available through a public search function. Through disclosure, stakeholders can find out how aid has been spent even at a very granular level. Aid grantors must send the CMA certain specified information regarding the beneficiaries of certain aid awards. This information will be published by the CMA on a searchable public database.
- 10.2 This guidance sets out the requirements on aid grantors to provide transparency information in relation to higher value awards of individual aid.
- 10.3 The transparency requirements apply to:
- (a) aid given under a scheme which has been notified and approved either by the Commission before exit day or the CMA after exit day.
  - (b) individual aid granted under the GBER and which exceeds €500,000.<sup>83</sup>
  - (c) individual aid granted under the FBER and which exceeds €30,000.<sup>84</sup>
  - (d) individual aid granted under the ABER and which exceeds:<sup>85</sup>
    - i. €60,000, for beneficiaries active in the primary agricultural production; or
    - ii. €500,000, for beneficiaries active in the sectors of the processing of agricultural products, the marketing of agricultural products, the forestry sector or activities falling outside the scope of Article 42 of the TFEU (as it had effect immediately before exit day).
- 10.4 For aid given under a notified scheme, aid grantors must check the individual transparency requirements in the relevant CMA statement of policy<sup>86</sup> or approval decision, or both, since the requirements differ depending on the type of aid. This guidance does not therefore set out the transparency requirements for notified aid.

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<sup>83</sup> Paragraph 2 of Schedule 6 to the Regulations.

<sup>84</sup> Paragraph 2 of Schedule 6 to the Regulations.

<sup>85</sup> Paragraph 2 of Schedule 6 to the Regulations.

<sup>86</sup> Under regulation 51 of the Regulations, the CMA must, on or before exit day, publish as statements of policy the English language versions of the guidance listed in the Table in Schedule 7 to the Regulations.

- 10.5 For individual aid granted under the block exemptions and exceeding the thresholds set out above, the aid grantor must provide to the CMA the specified information set out in the Appendix to this guidance. The information should be provided using the online notification system.
- 10.6 Aid grantors must ensure that all the specified information is entered. Some fields may be prepopulated from information already held in the online notification system, for example from Summary Reports or notifications. However, it remains the responsibility of the aid grantor to ensure that all the specified information is correctly and accurately entered.
- 10.7 Aid grantors must ensure all the specified information is uploaded within 6 months of the aid being granted.<sup>87</sup>

## **Public search**

- 10.8 The CMA must publish transparency information on high value awards of individual aid received from aid grantors.<sup>88</sup> The information will be published on a website hosted by the CMA which will be available to the public and which will allow the information to be searched by a range of criteria.<sup>89</sup>

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<sup>87</sup> Or in the case of aid given in the form of a tax advantage, 1 year from the date the tax declaration is due. Schedule 6 to the Regulations, paragraph 2(5)(b).

<sup>88</sup> In accordance with Schedule 6 to the Regulations, paragraph 5(2)

<sup>89</sup> [Add hyperlink to website once available].

## 11. Annual reporting of aid

### Introduction

- 11.1 Annual reports are an important part of the reporting and monitoring process. Under the Regulations, aid grantors must send an annual report to the CMA both in respect of existing aid schemes that have been notified and approved<sup>90</sup> and aid granted by virtue of a block exemption regulation.<sup>91</sup> The CMA will then publish an annual report.<sup>92</sup>
- 11.2 In relation to existing aid schemes, this includes aid notified to and approved by the European Commission before exit day and which is still in force, as well as aid notified to and approved by the CMA.

### Annual reporting

#### *Deadlines and reporting window*

- 11.3 Aid grantors must have submitted all information required in respect of the previous calendar year by 30 June.
- 11.4 Information submitted to the CMA must generally cover the entire year, or each part of the year during which the measure was implemented.<sup>93</sup>
- 11.5 Aid grantors will be able to input annual report information using the online system from 1 May to 30 June inclusive.

#### *Information and data*

- 11.6 Aid grantors should refer to the CMA's notice on the form, content and date for the submission of annual reports.<sup>94</sup>

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<sup>90</sup> Regulation 48 of the Regulations.

<sup>91</sup> Paragraph 3 of Schedule 6 to the Regulations. The block exemption regulations are the GBER, the ABER and the FBER.

<sup>92</sup> Regulation 49 of the Regulations requires the CMA to publish an annual report regarding existing aid schemes that have been notified and approved. The CMA also intends to include in its annual report information regarding aid granted by virtue of a block exemption regulation and exempt from notification.

<sup>93</sup> For 2019, data should cover state aid expenditure from exit day to 31 December 2019. For subsequent years, reports must be submitted by 30 June in respect of the previous calendar year, so for the June 2021 deadline, aid grantors must submit all state aid expenditure for the previous calendar year.

<sup>94</sup> [Link to notice when available]



- 11.7 Aid grantors must submit their annual report using the online notification system. All the specified information must be entered for the annual report to be complete.
- 11.8 In compiling an annual report, where information has already been provided to the CMA, for example in a standard Notification form, Summary Report or as part of transparency information, aid grantors may be able to pre-populate some of the required fields. This should reduce the burden on aid grantors by only requiring them to add any information which is incorrect or missing, for example:
- (a) aid that has been awarded since the aid grantor last updated the online notification system; and
  - (b) aid amounts that did not reach the *de minimis* threshold for transparency obligations.
- 11.9 It is the responsibility of the aid grantor to ensure that all information is correct including prepopulated fields, from transparency data, Summary Reports and notifications. In particular, the aid grantor must check that all aid totals are correct for the year in respect of their aid measures.
- 11.10 The CMA requests that actual figures be used by aid grantors to complete their reports, wherever possible. However, the CMA also understands that for some measures estimates may be the only option available to aid grantors before the June deadline. Therefore, estimates will be accepted in these exceptional circumstances, but must be updated with actual figures before the following year's reporting deadline.

### **Publication of the CMA's annual report**

- 11.11 The CMA will publish its own state aid annual report providing an overview of state aid spending in the UK. This will be compiled using annual reports submitted by aid grantors for block exempted and notified aid.
- 11.12 The CMA will publish a report for each year, summarising the content of the reports it received.

## 12. Evaluation

- 12.1 The CMA requires aid grantors to conduct evaluations of certain grants of aid to assess their effectiveness and impact on markets and competition. The CMA will refer to guidance published by the European Commission concerning evaluations.<sup>95</sup>
- 12.2 If a proposed measure has any of the following characteristics, the aid grantor must submit to the CMA an evaluation plan together with the Summary Report or Notification form:
- (a) the aid measure is large, meaning that it has an average annual budget greater than €150 million (including measures exempt from notification under the GBER);
  - (b) the aid measure is novel;<sup>96</sup> or
  - (c) the aid measure faces the possibility of significant market change in the near future that may require the assessment of the measure to be reviewed.
- 12.3 The relevant CMA statements of policy also specify other types of schemes that would benefit from evaluation.
- 12.4 For draft Summary Reports (before publication by the CMA) aid grantors can attach an evaluation form in PDF format using a hyperlink on the online notification system for Summary Reports.
- 12.5 For published Summary Reports, aid grantors must email the CMA directly at [stateaidenquiries@cma.gov.uk](mailto:stateaidenquiries@cma.gov.uk) with the measure number and the start and end dates of the measure, with the evaluation plan attached as a PDF.
- 12.6 For notified aid, a draft evaluation plan should be submitted with the Pre-Notification form and a final version submitted with the Notification form. Evaluation plans can be attached as PDF documents in the online notification system.

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<sup>95</sup> An FAQ document by the European Commission concerning the evaluation process is available [here](#). A policy brief from the European Commission can be found [here](#). The European Commission's [Staff Working Document](#) provides the common methodology in detail for State aid evaluation.

<sup>96</sup> Novelty is, in principle, considered in terms of the nature of the aid measure (eg aid to new types of technologies) or the markets it is targeting (eg emerging markets where market developments are at a very early stage).

- 12.7 Evaluation plans will be reviewed by the CMA. If amendments are required, the CMA will contact the aid grantor by email.
- 12.8 For aid benefitting from a block exemption, evaluation plans must be submitted no later than 20 working days after the measure comes into force. If, after six months of the measure entering into force, the evaluation plan has not been approved by the CMA, the measure will no longer be exempted under the block exemption regulation.
- 12.9 Therefore, it is advisable that evaluation plans are completed and submitted to the CMA, along with any supporting documentation, as early as possible. Before publication of the summary notice or during pre-notification for aid to be notified is advised.

## 13. Appendix

### Specified information for transparency awards

#### *Specified information for all awards*

13.1 The CMA requires the following information for a transparency award to be uploaded:<sup>97</sup>

- (a) aid measure title;
- (b) aid measure number;
- (c) aid award number;
- (d) name of the beneficiary;
- (e) beneficiary's identifier;
- (f) type of enterprise (SME or large) at the date of granting;
- (g) region in which the beneficiary is located, at NUTS<sup>98</sup> level II;
- (h) sector of activity at NACE<sup>99</sup> group level;
- (i) aid element, expressed as full amount in GBP for the financial year the award was granted in;
- (j) nominal amount, expressed as full amount in GBP;<sup>100</sup>
- (k) aid instrument (grant or interest rate subsidy, loan or repayable advances, reimbursable grant, guarantee, tax advantage, tax exemption or other aid instrument);
- (l) date of granting and duration;

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<sup>97</sup> Some of these fields may be imported from the summary notice or the notification page. Some fields may be populated by the webpage automatically, for example Aid Award Number.

<sup>98</sup> NACE has the meaning given in Article 2A of the GBER.

<sup>99</sup> NUTS<sup>99</sup> has the meaning given in Article 2A of the GBER;

<sup>100</sup> Only applies to awards where the aid instrument is one of the following: loan, guarantee, equity participation, tax advantage, tax exemption, tax deferment, tax rate reduction, Other (reimbursement of discount given to scheme members).

- (m) objective(s) of the aid;<sup>101</sup>
- (n) granting authority;
- (o) for aid schemes under Article 16 or 21 of the GBER, the name of the entrusted entity and the name(s) of the selected financial intermediaries.

### **Recording amounts**

13.2 Amounts are to be recorded as the full award value in sterling on a financial year basis.<sup>102</sup> An exception applies for awards given as a tax exemption or under a scheme using Articles 16 or 21 of the GBER, when a range should be selected.

### **Ranges for awards granted as a tax exemption or under Article 16 or 21**

- 13.3 For some awards, transparency obligations can be fulfilled by recording a range (in millions of Euro) in place of a discrete value (in GBP), for the aid element entry.<sup>103</sup> This only applies to awards given in the form of a tax exemption under ABER, FBER or GBER or under a measure implemented under Article 16 or 21 of the GBER.
- 13.4 The webpage will prompt users to indicate if the award falls into this categorization. The webpage will then prompt the user to enter a value or select a range as appropriate.
- 13.5 If an award is granted as a tax exemption under ABER or GBER or is granted under an aid scheme covered by Article 16 or 21 of the GBER, the following ranges (in millions of euro) will be used:
  - (a) 0.06-0.5 for primary agricultural production under ABER only;
  - (b) 0.5-1;
  - (c) 1-2;
  - (d) 2-5;
  - (e) 5-10;

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<sup>101</sup> For aid granted under GBER, FBER or ABER, only one stated objective. For aid not granted under GBER, ABER or FBER, scope for primary and secondary objectives (can have several of each).

<sup>102</sup> This contrasts with Reporting, when the calendar year is used.

(f) 10-30; and

(g) 30 and more.

13.6 If an award is granted as a tax exemption under FBER, the following ranges (in millions of euro) will be used:

(a) 0.03-0.2;

(b) 0.2-0.4;

(c) 0.4-0.6;

(d) 0.6-0.8;

(e) 0.8-1; and

(f) More than 1.