

## **The English Risk Capital Investment State Aid Scheme**

### **1. Member State**

United Kingdom

### **2. Regions**

East Midlands;  
Eastern;  
London;  
North East;  
North West;  
South East;  
South West;  
West Midlands; and  
Yorkshire and the Humber

### **3. Title of aid Scheme**

The English Risk Capital Investment State Aid Scheme

### **4. Government or statutory bodies authorised to implement the Scheme**

The implementing body is the Department of Communities and Local Government.

The implementing body has a range of statutory functions which include economic support through funds which make risk capital investments in business.

### **5. Legal Authority**

The implementing body is authorised to award aid under domestic law. The legal authority for the implementing body to award aid is contained within:

- The European Communities Act 1972;
- The Local Government, Planning and Land Act 1980;
- The Leasehold Reform, Housing and Urban Development Act 1993;
- The Local Government Act 2000;
- The Public Contracts Regulations SI 2006 No 5;
- The Local Government Act 2007;
- The Housing and Regeneration Act 2008; and
- The European Communities (Finance) Act 2008

## 6. Duration

The English Risk Capital Investment State Aid Scheme allows the implementing body to award and provide aid in England between 1 July 2011 and 31 December 2013.

## 7. Basis of Scheme

The English Risk Capital Investment State Aid Scheme is exempted from the notification requirements of Article 108(3) of the TFEU as aid is awarded in accordance with the General Block Exemption Regulation ([Commission Regulation No 800/2008](#)) of 6 August 2008 (“GBER”).

The scheme utilises Article 28 and 29 of GBER.

## 8. Aid Intensity

The English Risk Capital Investment State Aid Scheme allows the implementing body to award aid up to the maximum aid intensity allowable under Articles 28 and 29 of GBER, subject to the implementing body satisfying all the relevant provisions of GBER and the applicable terms of the scheme.

The maximum investment intensities are set out in the table below.

[Commission Recommendation C20031422/361/EC](#) (Official Journal L124, 20.5.2003) provides guidance on identifying the appropriate size of enterprise.

Aid Measure	Maximum % aid intensity levels for:			Notification thresholds (€)
	Large Enterprises	Medium Enterprises	Small Enterprises	
<b>REGIONAL AID: GBER SECTION 1</b>				
<b><u>Article 29:</u></b> <b>Aid in the form of risk capital</b>	N/A	Not less than 50% of total fund investment must come from private sector sources (reducing to 30% if the fund targets SMEs located exclusively in Regional Aid Assisted Areas)  +20%	Fund may not invest more than €1.5m per target SME	

Where the total funding from all public sources will exceed the above thresholds, no aid may be granted or otherwise committed until approval has been obtained from the European Commission.

## 9. Scheme Objectives

The object of The English Risk Capital Investment State Aid Scheme is to provide State Aid cover economic support provided through funds which make risk capital investments in businesses.

Any award made under The English Risk Capital Investment State Aid Scheme will be made at the discretion of the implementing body, taking into account considerations such as whether the award of aid will help unlock the commercial potential of the area and whether State Aid is the appropriate instrument to achieve the objective.

Where an award meets the requirements of the Market Economy Investor Principle, there is no requirement to declare the investment under this scheme as this is not considered to be aid within the meaning of Article 107(1) of the TFEU.

## **10. Forms of aid**

Aid under this scheme may take the form of the following aid instruments:

<b>INVESTMENT TYPE</b>	<b>DEFINITION</b>
equity	Ownership interest in an undertaking, represented by the shares issued to investors.
quasi-equity	Financial instruments whose return for the holder is predominantly based on the profits or losses of the underlying target undertaking and which are unsecured in the event of default.
seed capital	Financing provided to study, assess and develop an initial concept, preceding the start-up phase.
expansion capital	Financing provided for the growth and expansion of an undertaking, which may or may not break even or trade profitably, for the purposes of increasing production capacity, market or product development or the provision of additional working capital.

Other investment instruments consistent with Articles 28 and 29 of GBER may be used provided that DCLG in accordance with the administration requirements before the award is provided.

## **11. Granting Aid under the English Risk Capital Investment State Aid Scheme**

Each Investment Fund shall use the measures provided in Article 28 and 29 of the GBER, to provide at its discretion, risk capital to SMEs up to a maximum ceiling of €1.5m per target undertaking each 12 months. The amount of aid provided will be the minimum level of aid necessary to address the market failure.

To comply with the measure defined above, the public funds applied under this scheme shall take the form of participation into a profit driven private equity investment fund, managed on a commercial basis.

To ensure the scheme is profit driven, the following conditions shall be fulfilled:

- a) a business plan shall exist for each investment, containing details of product, sales and profitability development and establishing the ex-ante viability of the project; and
- b) a clear and realistic exit strategy shall exist for each investment.

To ensure that the investment fund is managed on a commercial basis, the following conditions shall be fulfilled:

- a) there shall be an agreement between a professional fund manager and participants in the fund, providing that the manager's remuneration is linked to commercial performance and setting out the objectives of the fund and proposed timing of investments; and
- b) private investors shall be represented in decision-making, such as through an investors' or advisory committee; and
- c) relevant best practice and regulatory supervision shall apply to the management of funds.

## **12. Procurement of suppliers**

All goods and services supplied to projects using the English Risk Capital Investment State Aid Scheme must be selected through an evaluation process which:

- is consistent with the Public Contracts Regulations 2006 (as amended); and
- demonstrates compliance with the principles set out in Article 2 of the Procurement Directive 2004/18/EC.

Where, for whatever reason, an open and competitive tender is not adopted, the recipient is required to keep records to demonstrate that the costs for each item or service are equal or lower than that which would have been established had the goods or services been selected through an open and competitive tender process.

The implementing body reserves the right to require the recipient to instruct an independent expert, at the recipient's cost, to verify whether the costs are equal or below that which would have been established through an open and competitive tender process.

Organisations delivering projects under the cover of the English Property Development State Aid Scheme should collect and retain documentation to demonstrate compliance with this provision.

Where, for whatever reason, an open and competitive tender is not adopted, the recipient is required to keep records to demonstrate that the costs for each item or service are equal or lower than that which would have been established had the goods or services been selected through an open and competitive tender process. The implementing body reserves the right to require the recipient to instruct an independent expert, at the recipient's cost, to verify whether the costs are equal or below that which would have been established through an open and competitive tender process.

## **13. Incentive Effect**

The implementing body will take all necessary steps to ensure the Incentive Effect requirements in Article 8 of GBER are satisfied before aid is awarded.

In accordance with European Commission notice "Incentive effect in relation to large enterprises" Comp/H4/CS/dg-D\*2011/097439, dated 20 September 2011, to ensure

compliance with Article 8 (3) of GBER, all projects using this scheme involving large enterprises will:

- Produce an internal document analysing the viability of the aided project activity with the proposed aid and without the proposed aid;
- Ensure the document contains credible analysis and demonstrates the incentive effect; and
- Shall submit that document to the implementing body, prior to the aid being legally committed.

#### **14. Excluded aid**

The English Risk Capital Investment State Aid Scheme allows aid to all sectors other than those listed below:

- Fisheries and aquaculture;
- Shipbuilding;
- Coal industry;
- Steel industry;
- Synthetic fibres; and
- Primary production of agricultural products (listed in Annex 1 of the Treaty; cork products under CN codes 4502, 4503, 4504; products used to substitute for milk/milk products).

This scheme shall not allow aid:

- which constitutes export aid or favours domestic over imported products;
- that has the objective of the establishing and /or financing of distribution networks in other countries;
- where implementing body has reasonable grounds to believe the recipient of funds will be within the definition of undertaking in difficulty (as set out in 2.1 of the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C244/02);<sup>1</sup>; and
- where the recipient of the aid is the subject of an outstanding recovery order relating to a previous European Commission decision in which aid has been declared illegal and / or incompatible with the Common Market.

#### **15. Cumulation**

The aid exempted in this Scheme may be cumulated with any other aid under the GBER as long as those aid measures are for different identifiable, eligible costs.

However aid under The English Risk Capital Investment State Aid Scheme may not be cumulated with any other aid exemption (for example another measure under GBER or the De Minimis Regulations 1998/2006) where the funding covers the same eligible costs and the effect is to exceed the applicable maximum aid intensity or aid amount applicable.

The Implementing body shall adhere to the requirements of Article 7(5)(a) of GBER: any recipient of funds under Article 29 of GBER shall for a period of 3 years (after the date of

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<sup>1</sup> other than SMEs that have been incorporated for less than 3 years unless they are insolvent under UK legislation

the first risk capital investment) receive a lower threshold under GBER measures and a lower maximum eligible amount shall apply (except in respect of support in accordance with the measures set out in Articles 31 to 37).

## **16. Administration**

The European Commission requires information on the use of all GBER schemes. Therefore whenever an implementing body project makes use of the English Property Development State Aid Scheme, they shall:

- write to Alexander Rose at the Legal Department, Department of Communities and Local Government to inform him that they are using the scheme and shall provide the required reporting information upon reasonable notice; and
- agree to collect information to meet the requirements of Articles 10 and 11 of GBER.

The requirements of Articles 10 and 11 of GBER, include records of the:

- Scheme title;
- Commission block exemption reference number;
- the decision date;
- the name and address of recipients;
- the amount of aid and evidence of gap calculations;
- the date and amount of aid payments;
- information on the form of each tranche of aid;
- the status of any undertaking where the level of aid is dependent on its status as an SME; and
- evidence that the incentive effect has been met for each award of aid.

Failure to provide information may mean that the aid is invalid. The implementing body requires that beneficiaries take reasonable steps to ensure records are retained for at least 10 years from the date of the last payment.

In the event that any part of this scheme is inconsistent with GBER, the provisions of GBER shall take priority.

## **17. Budget**

The maximum sum allowable in each calendar year under The English Risk Capital Investment State Aid Scheme shall be £350m. This sum is provided for State Aid purposes only and does not reflect a committed government budget.

## **18. Sources of Funding**

The awards of aid provided under this scheme may come from structured funds or otherwise.

## **19. Contact Details**

Alexander Rose  
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Legal Department  
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