



DRAFT EFAA POSITION STATEMENT: REVISION OF THE EU SME DEFINITION

Introduction

On 8 June 2017, the European Commission [published](#) an inception impact assessment regarding a potential revision of the EU SME definition. The European Commission has decided to do an evaluation of the EU SME definition mainly because of a possible need to update the financial thresholds as well as on legal grounds. The original definition dates back to 2003 and has been widely adopted throughout the EU as an important tool to determine whether enterprises fall within the scope of certain legislation, such as whether the entity is required to have an audit and what financial reporting rules apply, to provide legal certainty and to determine eligibility for access to finance. This statement sets out EFAA's views on revision to the EU SME definition.

Need for Revision

EFAA welcomes the idea to reassess the suitability of the financial thresholds not least because of the cumulative effect of inflation, which as one can see [here](#) has amounted to 0-3.7% per annum across the EU, and a surge in productivity. The effect of inflation varies significantly from one country to another with some southern EU economies experiencing static prices or even deflation in the past few years. The EU economy is also increasingly service sector oriented and service sector companies typically boast fewer assets than their manufacturing counterparts.

Fast Growing SMEs

The EU is rightly increasingly focused on scale-ups, fast growing SMEs are a vital driver of economic growth and innovation and with it an important source of new employment. Such SMEs need both freedom and support. However, the Commission points out that under the current definition and thresholds many SMEs are discouraged from scaling up for fear of losing their preferential SME status. While scale-ups represent a very small portion of EU SMEs EFAA sees value in the Commission's arguments.

Strict Definition

EFAA supports the Commission's views that a water tight definition of what constitutes an SME is necessary to provide much needed legal certainty. The definition needs to be such that it stifles the practice of larger companies redesigning their corporate structure to give the impression that it consists of many individual

SMEs since this practice channels benefits to their subsidiaries rather than genuine SMEs for whom the benefits were really intended.

Disaggregate SME Category

The current definition of SME captures some 99% of all business entities so we question the merits of widening the definition to scope in mid-cap and larger medium sized businesses. While the current definition is sufficiently broad this does however result in a wide spectrum of size and nature of SMEs. Hence, there might be a case for the definition to be better disaggregated to reflect the considerable differences between micro-entities and larger SMEs. Regulation that is manageable and proportionate for an SME with 250 employees may be disproportionately onerous for an SME with 10 employees and impossible for a one-person SMEs with no employees. However, all three types of SMEs fall under the European SMEs definition and must comply with the same legislation. Hence, EFAA believes there might be a case for either making micro-entities a separate category altogether from SMEs and / or creating a category of SMEs for independent professionals or what some call freelancers as the [Euro Freelancers](#) and the [European Forum of Independent Professionals](#) have argued.

Euro Freelancers note that freelancers as a stand-alone category have, since 2000, been the fastest growing segment of the EU labour market, doubling in size. Freelancers are a vital force in economic growth and stability and should be treated as a unique subset of micro-entities that is subject to minimal regulation and to specially targeted support. Euro Freelancers describes freelancers as follows: *“highly-skilled and well-educated self-employed workers without employers nor employees. They offer specialised services of a knowledge-based nature and work on a flexible basis in a range of creative, managerial, scientific and technical occupations, primarily in B2B.”* Crucially many are unincorporated and as such do not have a legal entity that allows them to benefit from the provisions included in the European SME definition.

Accordingly, EFAA urges the European Commission to consider revising the European SME definition so as to include a definition of freelancers as a highly-skilled segment of the self-employed and a unique subset of micro-enterprises. This definition could be based on that proposed by the [European Forum of Independent Professionals](#) though we'd suggest de-emphasise or adjust [the criteria](#) relating to payment – payment by input such as hours should be acceptable – and relationship with clients – long-standing, continuous relationships should be acceptable.

Type of SME

SMEs not only vary widely in size and sophistication. They also vary enormously as to form and nature. Service sector SMEs are very different from their manufacturing counterparts. Hence the SME definition might need to be further nuanced to allow for different industries and / or for different purposes (access to finance / regulation including audit and accounting requirements / VAT).

Local Public Enterprises

EFAA is sympathetic to the views of [CEEP](#) who have underlined the [need for a revised SME definition](#) that includes local public enterprises. Local public enterprises provide services to all SMEs. The current European legal definition of SMEs excludes most local public enterprises from its scope as it excludes enterprises with a public ownership of more than 25%. CEEP argue that this results in discrimination against local public enterprises, simply because of their ownership structure. As a result, unlike SMEs covered by the definition, they are excluded from many advantageous funding and financial schemes and faced with disproportionate regulatory burden which in turn leaves them at a competitive disadvantage with respect to their private sector counterparts. Hence, an amendment to the European SME definition is required to create a level playing field, one that treats all SMEs equally irrespective of ownership structure.