



Council of the  
European Union

Brussels, 5 November 2020  
(OR. en)

12593/20

RC 14  
COMPET 534  
ECO 48  
MI 448  
RECH 431  
IND 198  
ENV 686  
REGIO 263  
TELECOM 205  
ENER 405  
EF 271  
TRANS 509  
CCG 44  
AVIATION 202

#### COVER NOTE

---

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 30 October 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

---

Subject: Fitness Check of the 2012 State aid modernisation package, railways guidelines and short-term export credit insurance

---

Delegations will find attached document SEC (2020) 372 final.

---

Encl.: SEC (2020) 372 final



EUROPEAN COMMISSION

Brussels, 10.7.2020  
SEC(2020) 372 final

**REGULATORY SCRUTINY BOARD OPINION**

**Fitness Check of the 2012 State aid modernisation package, railways guidelines and short-term export credit insurance**

{SWD(2020) 257 final}  
{SWD(2020) 258 final}



EUROPEAN COMMISSION  
Regulatory Scrutiny Board

Brussels,  
RSB

## Opinion

**Title: Fitness check of the 2012 State aid modernisation package**

**Overall opinion: POSITIVE**

### (A) Policy context

Member States may choose to aid undertakings in the name of public interest. Examples include such things as R&D, risk financing for SMEs, environment, aviation and regional aid. EU State aid policy aims to ensure that State support does not distort the internal market or unduly limit competition.

The 2012 State aid modernisation (SAM) reformed the EU framework of rules, to support the Europe 2020 strategy for sustainable growth as well as budget consolidation goals. SAM also refocused the Commission's scrutiny toward cases with the biggest potential impact on the internal market.

This fitness check examines how the reformed framework has performed. It will feed into the process of revising and updating the EU State aid regulatory framework, and inform judgments on the need for non-regulatory actions such as advocacy or training. It also responds to review clauses in some of the laws.

### (B) Summary of findings

**The Board notes useful additional information provided in advance of the meeting and commitments to make changes to the report.**

**The Board gives a positive opinion. However, the Board also considers that the report should further improve with respect to the following aspects:**

- (1) The report does not discuss the relative importance of the revised General Block Exemption Regulation compared to the other SAM instruments in contributing to the SAM objectives.**
- (2) The report relies too much on (majority) stakeholder views and does not make sufficient use of other evidence.**
- (3) The conclusions are too positive in the light of the available evidence. They do not translate into operational lessons that are useful for possible future policy developments for the different elements of the SAM framework.**

This opinion concerns a draft fitness check which may differ from the final version.

Commission européenne, B-1049 Bruxelles - Belgium. Office: BERL 08/010. E-mail: regulatory-scrutiny-board@ec.europa.eu

**(C) What to improve**

(1) The report should better justify its scope. It should explain why it includes the railway guidelines and the short-term export credit insurance Communication, and excludes the State aid guidelines for the broadband sector. It should explain the legal and economic rationale for deciding which State aid instruments to include in the analysis.

(2) The report should provide a better overview of how the various instruments of the SAM package work together. It could improve its intervention logic to clarify and explain how the SAM instruments complement and reinforce each other to deliver better outcomes. The effectiveness and efficiency analyses should do more to show how the individual instruments have contributed to each of the SAM objectives.

(3) The report should explain the relationship between the microeconomic dimension of State aid (its allocative function) and the macroeconomic dimension (counter-cyclical spending). It could clarify that the latter is addressed by other policy instruments. The report should also discuss whether increased spending on State aid by almost all Member States – and especially the wealthier ones – might be an issue of concern. It should explore whether the increase in State aid under the block exemption includes undue reclassification of notification cases.

(4) The report should further complement (majority) stakeholder views with other (quantitative and qualitative) evidence. For example, it should take better account of minority stakeholder views, expert contributions and available national ex-post evaluations. The report could do more to triangulate across the different sources of evidence.

(5) The conclusions should take into account the uncertainties left by the evidence to provide an unbiased view of the instruments' fitness. The report should formulate more operational conclusions, indicating lessons for future policy development. They should provide more detail on which elements are fit for purpose, which need to be updated, and why. This also applies to the conclusions in annex on the individual State aid instruments, as the fitness check may inform future revisions. The report should place the conclusions in the context of the current economic situation and the impact of the Covid-19 crisis on the short-term and long-term prospects of the SAM instruments.

(6) The report should highlight the simplification and burden-reduction potential, not only regarding the use of block exemptions but also regarding the sectoral SAM instruments. If the evidence does not allow a conclusion on this point, the report should say that.

*Some more technical comments have been sent directly to the author DG.*

**(D) Conclusion**

**The DG must take these recommendations into account before launching the interservice consultation.**

Full title	Fitness check of the 2012 State aid modernisation package
Reference number	PLAN/2018/4881
Submitted to RSB on	10 June 2020
Date of RSB meeting	8 July 2020

2

 Electronically signed on 10/07/2020 11:40 (UTC+02) in accordance with article 4.2 (Validity of electronic documents) of Commission Decision 2004/563