

SME Relief Package: key areas to ensure SMEs growth

Key messages

- The SME Relief Package must tackle the issue at the source. **Smart Regulation is of utmost importance for an SME-Friendly Regulatory Framework.**
- The Commission must follow its own guidelines to provide SMEs with workable legislation: The **Think Small First, Once Only and One In One Out principles are still far from being applied systematically.**
- The revision of the Late Payment Directive must include **strict payment terms both for B2B and B2G contracts.** Delays from the authorities must systematically include compensation. Monitoring and ensuring compliance with the directive is essential. Member states should appoint a responsible authority to intervene at the request of a small business and, if necessary, impose sanctions for non-compliance.
- **Early Warning Tools are more than ever necessary.** For entrepreneurs to turn around their business and have a second chance, **the insolvency directive implementation must be thoroughly assessed.** It is also necessary to work on overcoming obstacles for entrepreneurs' second chance. An EU-wide study of the obstacles that entrepreneurs face for second chance would be a good starting point to overcome these barriers both at national and European level.
- SMEUnited believes that due to the demographic trends in Europe, **SME business transfers and succession should be given a more central role** in the EU SME policy. SMEUnited asks business transfer promotion measures to be included in the SME relief package. The Commission should also update its 1994 recommendation on SME business transfers (94/1069/EC).
- **SMEs have been confronted with a lack of skilled staff for decades. The Relief Package should improve skills intelligence tools** to identify the skills needs in different sectors, invest in upskilling and reskilling of entrepreneurs and workers and support economic and labour migration.
- The **SME window** and other funding / financing tools for SMEs have to be reinforced. Equally, SMEs' access to public procurement contracts should be strengthened – SMEs still face too many obstacles in bidding and winning in procurement processes.
- **BEFIT** should remove barriers to cross-border activities of SMEs.

Introduction

SMEUnited welcomes the announcement of an SME Relief Package by President Von Der Leyen. At the occasion of the fifteenth anniversary of the adoption of the Small Business Act, which sets out the principles designed to encourage entrepreneurship and allow small businesses to thrive, an impactful SME Relief Package must be presented as soon as possible.

“We cannot buy competitiveness, it has to be built. Subsidies, protectionism and trade wars will not get us there” stated Petri Salminen, SMEUnited President. Much has been accomplished in the 30 years of the Single Market. Now we have to ease the regulatory burden for SMEs, and focus on full implementation and enforcement. Instead of adding new rules because the existing ones don't seem to be fully functioning.

The Commission proposals concerning competitiveness and net zero economy are a step in the right direction for SMEs in the EU. However, small companies are unlikely to relocate. Many of them provide our everyday needs and offer a broad choice for consumers. They provide employment in rural areas, support our local cultural and sports associations, promote social cohesion, and more.

SMEUnited calls for the SME Relief package to tackle the 3 main SME challenges: regulatory environment, investment capacity for the transition and skills development. Additionally, we propose several measures in this position paper that allow to relief pressure on SMEs and create breathing space for them to implement the twin transition in their business.

1. Guarantee Smart Regulation

SMEUnited advocates for Better Regulation, not less. Better Regulation does not mean ‘more’ or ‘less’ legal acts or pure deregulation, but a more efficient regime. It means making rules that deliver clear benefits while minimising the regulatory costs necessary to achieve the desired policy goal. In theory, the Commission is also engaged on the path of smart Regulation with important principles in place, but in practice, these principles unfortunately lack of efficient application.

First and foremost, the **‘Think Small First’ principle must be systematically applied.** ‘Think Small First’ as a core principle does not mean exempting SMEs, but ensuring legislation is practicable for entrepreneurs, or if it will require them to use resources which could be used where they would be more needed.

A **more systematic application of the ‘Once Only principle’** would certainly be a true relief for entrepreneurs. They are more and more required to share information. However, if sharing information is important to ensure transparency, it makes absolutely no sense to fill numerous files, surveys, applications, with the same information over and over again.

The promised **‘One In One Out’ principle** must be applied in a consistent manner. Its application must mitigate the risk of unjustified deregulation, at the same time using the transposition period of new legislation to search for ‘burden/costs’ in other legislation that can be taken out to compensate. However, the principle as it stands does not lower the actual level of administrative burden. A significant relief would come from a One In X Out principle. The efficiency of the OIOO approach will depend on the implementation of a solid methodology for calculating the compliance costs that needs to be offset vis-à-vis the savings in other regulatory areas, when and how the offsets will take place. Furthermore, SMEUnited asks the Commission to publish the respective data which they use for their analysis regarding the One in One out approach. The number of regulatory areas (sustainability and dark patterns) is constantly increasing and in the existing areas legislation is expanded with every review (e.g. information requirements for the benefit of consumers).

Lastly, **Better Regulation for SMEs will be the result of a better application of the SME test.** The SME Test must be performed for every legislation. The indirect impact of legislations and the cumulative effect must be taken into account. We refer to the analysis made by SMEUnited, Eurochambres and Business Europe.

SMEUnited proposes to introduce at EU level a program to **identify, measure, analyse and reduce cumulative EU regulatory burden** for SMEs. The ‘SME Program on Reducing Cumulative Regulatory Burden’ should also deal with the proportionality of legislation and aim to tackle gold-plating by identifying best practices in Member States. The program builds on a tested methodology to identify, measure and reduce cumulative regulatory burden that has already been developed and used at Member State level (e.g. the Netherlands and Germany). The program should also be introduced at a European level to tackle the cumulative regulatory burden for SMEs that has increased in recent years as an unintended effect of the ambitious legislative agenda of the EU.

1.1. Reduce reporting obligations for SMEs

The Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CS3D) must keep information and due diligence obligations to a minimum. Furthermore, the requirements must be designed in a way that does not hinder craft enterprises' access to value chains, or to funding for climate protection and energy transition projects. In the context of lending or the supply chain, the **collection of comprehensive sustainability data entails an excessive, inappropriate, and often not even possible amount of effort** for craft enterprises.

Appropriate thresholds must be foreseen and the **European part of the supply chain must be exempted from the due diligence obligations for supply chains.**

The SME standards developed by EFRAG under sustainability reporting must consider the interests of SMEs. As things stand, this is not ensured, as SMEs are structurally underrepresented within EFRAG.

1.2. Improve interoperability

Digital instruments for the administrative cooperation of authorities should be further advanced. IMI, Single Digital Gateway, the "once-only" principle and the European citizen, and business portal 'YourEurope' should be further developed, improved, and linked to a uniform digital identification system (EU Digital Identity Wallet).

2. Ensure SME investment capacity

Many SMEs have either invested their savings or taken up additional loans to stay afloat during the pandemic. Now they lack the investment capacity to ensure upfront financing for investments in energy transition, digitalisation and so on.

2.1. Review the late payment directive

SMEUnited welcomed the announcement of the revision of the late payment directive, given calls from entrepreneurs for a decade. As President Von Der Leyen stated, one bankruptcy out of four is due to late payment and this is not acceptable.

Monitoring and ensuring compliance with the directive is of utmost importance. Small businesses are currently unable in practice to enforce the law effectively. Therefore, **SMEUnited suggests that the directive should require member states to appoint a responsible authority to monitor compliance and intervene at the request of the small business** and, if necessary, impose sanctions for non-compliance.

The revision of the directive must limit the standard payment term in B2B to 30 days negotiable up to a maximum of 60 days, including the verification period. This would also clarify the current uncertainty existing on the interpretation of "grossly unfair" payment terms.

Of course, specific situations in certain value chains can justify for a derogation, in agreement with the sector, and the use of a shorter or longer payment term.

To lead by example, Member States must be obliged to make their payment procedures more efficient in B2G contracts. The verification procedure to assess the conformity of goods and services with the contractual specifications should not be used to extend payment periods artificially beyond the limits imposed by the Directive.

SMEUnited proposes to limit B2G payment terms in principle also to 30 days, exceptionally up to a maximum of 60 days, including the verification period. If a public administration pays later

than accepted, a principle of compensation of credits with tax, social insurance or welfare debts for the company concerned should be introduced.

For B2G and B2B we also recommend the introduction of e-invoicing, nevertheless, as this might still be quite expensive for some SMEs, they need time and a phased introduction.

Please find the more detailed [SMEUnited position paper on the Revision of the Late Payment Directive on the website](#).

2.2 Reinforce the SME window / financing tools for SMEs

SME financial instruments available via the SME Window of InvestEU are not sufficient. The first calls are already heavily over-subscribed and most of the budget comes from Next Generation EU, which means it is only available for the next two years. **Therefore, the review of the Multiannual Financial Framework should increase the budget available for the SME finance from InvestEU.**

The European Innovation Council (EIC) procedures are too complicated and take too much time, whereas the previous scheme SME Instrument was more available for micro and small firms. In line with the European Parliament's Report EIC 2022/2063(INI), the EC should design funding instruments more accessible for small and micro enterprises.

3. Facilitate skills development

3.1. Invest in skills development for entrepreneur and staff

The current labour market situation is strongly impacting SMEs which are facing structural difficulties in recruiting qualified staff due to a growing lack of labour skills mismatches and gaps.

SMEUnited considers the European Year of Skills the best opportunity to:

- improve skills intelligence to identify the skills needs in different sectors and support skills governance structures
- **invest in upskilling and reskilling of entrepreneurs and workers in light of the green and digital transformation** to adapt to rapid labour market changes. Fostering on-the-job training is one of the best ways to ensure that the labour force is equipped with the right skills at the right time for newly emerging tasks
- organise economic legal migration as part of the policy mix to overcome the lack of labour and skills shortages. It will contribute to support SMEs as long as the skills and qualifications of the third country nationals correspond to the labour market needs.

3.2. Enhance early warning tools and second chance

The insolvency Directive requests Member States to put in place Early Warning Tools. Given current increase of bankruptcies and closure of companies, the national implementation of the EU insolvency directive along with barriers on second chance after bankruptcy should be assessed.

Performed from the perspective of the SME, the assessment could identify elements of good practice, barriers and potential for optimising national or regional systems. It would be presented to the EU for review and policy action as it deems preferable.

3.3 Facilitate SME business transfers

The recent economic and geopolitical crisis' have underlined the need for better crisis management and preparation in SMEs in order to stay resilient to future challenges. One of these challenges of the future is derived from the demographic trend in Europe: entrepreneurs and business owners are ageing and more and more businesses will need to be transferred to owners in the years to come. **SMEUnited believes that SME business transfers and succession should be given a more central role in the EU SME policy and asks business transfer promotion measures to be included in the SME relief package.**

SMEUnited also asks the Commission to update its 1994 recommendation on SME business transfers (94/1069/EC) to better reflect the current needs of business transfer promotion work and the significant changes in the business climate that have taken place since the last review of the developments was made in 2013.

4. Measures to relief pressure and make SMEs thrive

4.1. Cut red tape for posting of workers

Clear rules and pragmatic procedures are essential to skilled crafts enterprises, especially when it comes to cross-border work. **Notification, reporting and verification requirements must be minimised, simplified, transparent, and comprehensible.**

Companies need simple tools to be able to deal with posting formalities quickly without bureaucracy. A step in the right direction is the so-called "e-declaration" and the ELA guidelines for simple and transparent national information portals on working conditions, expected to be published in 2023. Nevertheless, these measures can only be seen as interim solutions.

The creation of a digital social security card is another important step towards improving freedom of movement and freedom of services. In addition, the eID and the EU Digital Identity Wallet need to be further developed.

4.1. Facilitate public procurement

SMEUnited finds it also important that the Commission takes action on strengthening the use and accessibility of public procurement for SMEs in Europe. Many SMEs currently face significant barriers, both regulatory and non-regulatory, to bidding and winning public procurement contracts – lengthy and difficult bidding processes (very large contracts, expensive standards and certification requirements, etc), lack of knowledge about upcoming contracts and knowledge asymmetry between large and small enterprises, limited resources and experience to bid on contracts, among others. **Although the European Directive already requires simplification and recommends division in lots, many Member States do not apply these rules. SMEUnited asks for soft measures like best practices and guidelines.**

4.2. Simplify state aid rules

Simple and flexible state aid rules for supporting SMEs are especially important.

SMEUnited supports the introduction of a mandatory register for de minimis aid, which would provide more transparency about who receives such aid and – even more important – will reduce the administrative burden for companies who currently use a self-declaration system. However, such a register - especially if it is a public one - has to ensure that competitors and other companies will not have access to business secrets of other companies via such a register. Therefore, such a register should only be accessible for providers of State aid or the public available information may only cover the amount but not the purpose of a specific aid provided.

Furthermore, some national members complain about the high burden related to very small amounts of aid (i.e. seminars, advisory services, etc.), which often are below €1000 and create fully unproportionate administrative burdens for both the SMEs and the provider of aid (i.e. craft chambers) without risking to come even close to the overall threshold for de-minimis. In case the introduction of a mandatory register fails again, the European Commission should provide a less burdensome solution for this very small amounts of aid. The system of subsidised business advice offered by the skilled crafts organisation is an example of precious assistance to SMEs, which will be an essential element in achieving the EU's goals in the digital and green transformation.

4.3. Remove barriers to cross-border trade with BEFIT

High compliance costs for SMEs doing cross-border business and unfair effective tax rates for SMEs are the main disadvantages of the current 27 corporate tax regimes within the Single Market. Especially compared to large multinationals able to benefit from tax planning. The upcoming BEFIT (European framework for business taxation) proposal, announced as part of the SME Relief Package, should remove these barriers for SMEs. However, it should not create additional burdens for smaller companies active only in national markets.

Although there is the necessity of a more harmonised approach to corporate taxation for the Single Market, SMEs have concerns about changes to corporate tax systems. SMEs operating only at national level see more costs of changing the system rather than benefits of a common tax model.

Therefore, SMEunited put forward the following conditions to allow SMEs to support a common European framework:

- BEFIT should only be mandatory for large companies, starting with those falling under pillar 2 of the OECD agreement (more than 750 Mio turnover)
- even if the threshold is lowered over time, it should always be optional for SMEs, especially those not doing cross-border business
- all companies not covered by the mandatory application should be able to opt in
- the model should allow for cross-border loss relief and the common tax base should be distributed based on a formula.

After the failure of two proposals for the Common Consolidated Corporate Tax Base (CCCTB) in the past, we see the OECD Agreement – especially the pillar 2 approach – as a new opportunity to solve the problems created by 27 different corporate tax systems for companies and tax authorities.

4.4. Provide a more realistic consumer law

The European consumer law should be more strongly oriented towards the actual needs of consumers and the capacity of SMEs. Additional measures are needed to align the legal situation with the practice without lowering the level of consumer protection. For example:

- abolishing the disproportionate consequences arising from formally incorrect information on the right of withdrawal
- granting businesses more flexibility and leeway with regard to providing information on the right of withdrawal
- establishing uniform information obligations and form requirements for doorstep and distance contracts.

4.5. Allow SMEs to go sustainable

4.5.1. Practicable eco-design requirements

To ensure that the eco-design requirements do not negatively and disproportionately impact SMEs, the regulation should entail concrete measures that significantly reduce the efforts and costs for SMEs.

The European Commission's guidelines and the indication of support by Member States are not adequate to reduce the added burdens. **Concrete measures should cover the exclusion of**

customised products so that they are not subject to the same requirements as mass-produced products. Moreover, SMEs must be fairly and proportionately represented in the relevant committees for the development of eco-design requirements for product groups.

Since the specifications are defined in the relevant standardisation bodies, targeted funding opportunities must be created to enable the participation of SME representatives. An excellent example is the standardisation work of Small Business Standards (SBS), which is funded by the EU Commission.

4.5.2. Avoid unnecessary burdens in energy efficiency measures

The revision of the Efficiency Directive should lead to the encouragement of low-threshold and SME-compatible efficiency measures. In contrast, obliging craft enterprises to carry out audits leads to unnecessary burdens.

In the Energy Performance of Buildings Directive, general efficiency requirements must be avoided. For example, the building of a craftsman's workshop cannot be compared to the building of an office. Otherwise, it results in disproportionate burdens.

Additionally, European guidelines should work towards speeding up planning and approval procedures in pioneering areas, e.g. the expansion of decentralised renewable energies, the rapid development and expansion of charging infrastructure, and the circular economy.

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