

Excerpt from the Framework for the Coordination of the Joint Federal/Länder Task for the Improvement of Regional Economic Structures (GRW) from 1 January 2024

Preamble

The Federal Republic of Germany is characterised by an enormous degree of regional diversity which has proved to be an important foundation of the country's economic success over the last few decades. At the same time, this diversity means that the regions vary in terms of their abilities to adapt and compete in the wake of structural change. This in turn fosters the formation of regional disparities, e.g. in terms of the economic potential and the employment and income situation, the demographic development and the available infrastructure.

The key principle underpinning the Joint Federal/Länder Task for the Improvement of Regional Economic Structures (GRW) is to strengthen the economic development potential of structurally weak regions and their ability to cope with transformation processes, and in this way to contribute to equivalent standards of living across Germany. This means that the GRW is different from all of Germany's other funding programmes with a spatial impact, since it is the only one to be based on cooperation between the Federation and the Länder anchored in the Basic Law and established for more than five decades, and to follow a holistic strategy for the medium-term and long-term strengthening of economic development in structurally weak regions. This approach makes it possible to provide incentives for investments and more comprehensive cooperation in structurally weak regions, and at the same time to avoid a subsidy race between Länder and regions.

In view of the changed parameters, the Federation and the Länder reviewed the entire funding system in detail and updated it in the course of the reorientation of the GRW in 2022. Throughout the entire process, the expertise of representatives from academia and from companies, associations, trade unions, municipalities and other interested organisations was taken on board. The new Coordination Framework from 2022 was adopted on 13 December 2022 by the GRW Coordination Committee, which consists of the Federal Minister for Economic Affairs and Climate Action as its chair, the Federal Minister of Finance and the economic affairs ministers of the Länder. It puts the preconditions in place for the GRW to continue to serve as a modern, rules-based, targeted and effective instrument and the backbone of regional structural policy in Germany. As a central programme of the "Federal Funding System for Structural Development Regions", the GRW thus makes an important contribution towards their ongoing development.

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1. Basic principles

1.1 Objectives

(1) The Federation and Länder contribute to the establishment of equivalent standards of living by means of the Joint Federal/Länder Task for the Improvement of Regional Economic Structures, and use the support to pursue three main objectives in the structurally weak regions:

- creating and safeguarding jobs, boosting growth and prosperity;
- offsetting disadvantages affecting commercial activity;
- accelerating the transition to a climate-neutral and sustainable economy.

(2) In order to ensure that these main objectives are attained, each project funded in the context of the GRW must meet the respective preconditions relating to the main objectives. It is sufficient for the project to support one of the main objectives.

(3) The Länder can stipulate subordinate objectives of the GRW in the context of these objectives, such as improving regional innovative capacities, strengthening regional value chains and creating high-grade jobs, and take account of needs specific to their Land. To this end, they can also restrict the rules under numbers 2 to 5.

1.2 Legal bases and implementation of the support

(1) Grants are made in line with this Coordination Framework, which implements and fleshes out the requirements put in place by the GRW Act¹ for the Joint Task in accordance with Article 91a (1) number 1 in conjunction with Article 72 (2) Basic Law, taking account of the general budgetary and European² requirements.

(2) The actual provision of the support is a task that falls solely to the Länder. It is they who select projects, who issue recipients with notices of approval on their own responsibility and in compliance with State aid legislation, and who monitor compliance with the relevant terms and conditions.

1.3 Assisted areas

Support may only be implemented in the assisted areas (Annex 6), which were stipulated on the basis of the Regional Aid Guidelines 2022-2027 of the European Commission and of a regional indicator model³ by the Coordination Committee from 1 January 2022, and which take account of the challenges facing structurally weak areas in Germany in a balanced and appropriate manner.

1.4 Projects eligible for support

Projects eligible for support are commercial investments, investments in municipal commerce-related infrastructure, and non-investment-related activities and further measures to boost the attractiveness of areas and competitiveness, including certain aspects of regional general interest services. Support for measures of regional general interest services which are closely related to commerce is initially intended to be limited until the end of 2026 as a model trial with subsequent evaluation.

1.5 Principles for the provision of support

(1) There is no legal entitlement to GRW funding.

(2) The GRW funding is supplemental support and must not replace other public funding possibilities.

¹ Act on the Joint Federal/Länder Task for the Improvement of Regional Economic Structures (GRW Act) of 6 October 1969 (Federal Law Gazette I p. 1861), last amended by Article 1 of the Act of 13 April 2021 (Federal Law Gazette I p. 770).

² Regional Aid Guidelines 2022-2027 (EU OJ C 153 of 29 April 2021, p. 1); Commission Regulation (EU) No 651/2014 of 17 June 2014 (EU OJ L 187 of 26 June 2014, p. 1) in the version currently in force (General Block Exemption Regulation, GBER); Commission Regulation (EU) no 2831/2023 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ EU L 352/1 of 15 December 2023) in the version currently in force ("De minimis Regulation").

³ The labour-market regions, which are defined on the basis of commuter traffic, are scored using an indicator model and ranked starting with the region that is structurally the weakest (in terms of economic performance) to the one that is the strongest. The overall indicator is basically decisive for the distribution of the inhabitants of assisted areas and the stipulation of the assisted areas. It comprises the following regional indicators: regional productivity (gross domestic product per gainfully active person in 2018, weighting: 37.5%; average underemployment rate from 2017-2019: 37.5%; development of number of employable persons from 2017-2040: 17.5%; infrastructure indicator: 7.5%.

- (3) The assessment as to whether a project is eligible to be considered for support and the assessment regarding aid intensity and the amount of support is made based on the facts as they stand at the time at which the grant is approved⁴.
- (4) Any financial support granted to the applicant from public-sector funding in earlier years is taken into account as the application is being considered.
- (5) Applicants who have failed to act on an aid-repayment order will only be considered eligible for support once they have repaid the amount stated in the aid-repayment order.
- (6) Support may not be granted to enterprises in difficulty⁵, except in cases where support is granted for the purpose of disaster relief after a natural disaster has occurred and where State aids are transparent under the De minimis Regulation⁶.

⁴ Cf. Article 2 number 28 GBER.

⁵ Cf. Article 2 number 18 GBER.

⁶ Cf. Article 4 De minimis Regulation.

2. Support for trade and industry

2.1 Terms and definitions

2.1.1 Permanent establishment

The term ‘permanent establishment’ is used within the meaning of Section 12 of the Fiscal Code (AO); the term ‘commercial’ is used within the meaning of the Trade Tax Act (GewStG).⁷ In the interest of promoting teleworking jobs pursuant to number 2.3.2, the place at which a teleworker performs his/her duties is regarded as a non-independent part of the enterprise’s permanent establishment.

2.1.2 Single investment

Any initial investment made by an investor (group) in the same or a similar activity⁸ who has received support for another investment in the same NUTS-3 region and for which work began no more than three years prior to the new investment is regarded as part of the same single investment. If the single investment falls into the category of large-scale investment, the overall State aid granted for this single investment must not exceed the maximum amount of support for large investment projects.⁹

2.1.3 Startup

The startup phase of an enterprise is defined as the period of 60 months following the first registration of the commercial enterprise. An enterprise is regarded as a startup if it has registered commercial operations for the first time and unless it is under majority ownership of one or several independent entrepreneurs or existing enterprises.

2.1.4 Job

- (1) The number of permanent jobs must be indicated separately from the number of employees.
- (2) The number of permanent jobs is the number of full-time equivalents (FTEs).
- (3) Permanent jobs are defined as jobs which, from the outset, are created for the long term and retained at least for the minimum duration [of five years] (cf. number 2.6.2(4)).
- (4) The Länder are free to decide if agency workers can be counted towards the number of permanent jobs.
- (5) Part-time jobs are counted as a proportion of the annual working hours of a full-time job.
- (6) Seasonal jobs and their annual average working hours as set out in a collective agreement or practised by the enterprise will be counted towards the number of permanent jobs, provided that they are available and filled on a permanent basis for the season relevant to the permanent establishment.
- (7) Where more than one shift is operated, the number of permanent jobs is, as a general rule, considered to be equivalent to the corresponding number of employees.
- (8) A job is considered to be a teleworking job if an employee uses electronic media (for instance data processing equipment that is operated in online or offline mode) at his/her home to perform his/her duties under his/her employment agreement for an enterprise located in a different place. A job is considered to be an isolated teleworking job if the employee performs all of his/her activities for the enterprise at his/her home. A job is considered to be an alternating teleworking job if the employee performs part of his/her activities for the enterprise at his/her home, and part of his/her activities on company premises/on the premises of the employer.

2.1.5 Small and medium-sized enterprises, large enterprises¹⁰

- (1) Medium-sized enterprises are companies which
 - a) employ fewer than 250 persons, and

⁷ German Fiscal Code as amended in the publication of 1 October 2002 (Federal Law Gazette I, p. 3866; 2003 I, p. 61) in the version in force at the time; Section 2 of the Trade Tax Act of 15 December 2002 (Federal Law Gazette I, p. 4167) in the version in force at the time.

⁸ Within the meaning of Article 2 No. 50 GBER.

⁹ Cf. Article 14(13) GBER.

¹⁰ Definition as in Annex I (GBER).

- b) have an annual turnover of a maximum €50 million or an annual balance sheet of a maximum €43 million.
- (2) Small enterprises are companies which
- a) employ fewer than 50 persons, and
 - b) have an annual turnover or annual balance sheet of a maximum €10 million.
- (3) Large enterprises are defined as companies that do not meet the above preconditions.
- (4) The calculation methods specified in Annex I of the GBER are used to determine the thresholds for autonomous enterprises, partner enterprises and ‘linked enterprises’.

2.2 Procedure

2.2.1 Applications

- (1) GRW funding is granted upon application and takes the form of a grant or a low-interest loan pursuant to number 5.3.
- (2) Support goes only to projects for which a written application or an online application which meets the requirements of the Online Access Act has been made to a body entitled to receive applications¹¹ prior to the beginning of work on the investment project.¹² Applications must be made on the official form or official online form.¹³
- (3) The beginning of work on the investment project is defined as
- a) the time of the conclusion of a delivery or service agreement associated with project implementation; or
 - b) the beginning of construction work associated with the investment; or
 - c) the time of the placing of the first binding order for equipment; or
 - d) the time at which any other commitment is made that renders the investment irreversible.

Work on the investment project is deemed to have started at the time at which the first of these actions is performed. Neither the purchase of land nor preparatory work such as the filing of requests for approval or the conducting of preliminary feasibility studies will be taken as the beginning of work on the investment project. Where the project involves construction work, neither planning nor ground surveys will be taken as the beginning of work. In cases where a permanent establishment is being taken over, the beginning of work on the investment project will be taken as the time of the acquisition of assets that are directly linked to the permanent establishment.

2.2.2 Eligibility to apply

- (1) The right to apply for support of trade and industry is reserved to the party undertaking the business investment. In the case of a partnership within the meaning of Section 15 of the Income Tax Act (EStG) or of an integrated company within the meaning of Section 2(2) of the Trade Tax Act, the party using the assets at the permanent establishment situated within the assisted area is eligible to apply. Where an enterprise has been split up and where this demerger has been recognised for tax purposes, it is mandatory for a joint application to be filed by the holding company and the operating company.
- (2) In the case of a hire-purchase or lease of an asset, the hire-purchaser or lessee is eligible to apply.
- (3) The hire-purchase or leasing agreement must state:
- a) The purchasing or manufacturing costs of the object, the period for which the lease is non-cancellable, the level of the relevant rental or lease instalments, and the terms under which the hirer or lessee is able to purchase the object and/or renew the rental agreement or the lease, and the basis of assessment for these, which must not exceed the residual book value.
 - b) Where the leased or rented object is real estate, use of any variation clauses permitting adjustments to be made to the leasing instalments in order to account for changes regarding interest rates and/or administrative costs.

¹¹ Cf. explanations on how to fill in the Application Form, Annex 2.

¹² Cf. Article 6(2) GBER.

¹³ The official (online) form is made available by the authorised authorities entitled to receive applications. It comprises at least the contents of the template in Annex 2.

2.2.3 Consensus requirement

(1) Investments that are made at or at around the time when a significant reduction of jobs occurs at another permanent establishment linked to the enterprise and situated in an assisted area receiving a lower level of GRW support, and that are linked in nature/substance to this reduction of jobs, are only eligible to be considered for support if consensus is reached about this with the Land/Länder affected by the reduction in jobs. A significant reduction of jobs is deemed to occur whenever the number of jobs lost at the other permanent establishment is equivalent to half or more of the number of newly created jobs. Where it proves impossible to reach consensus on granting support for the investment in the target area, the maximum rate of support for which the project is eligible to be considered will be equivalent to the rate of support that applies pursuant to number 2.5.1(1) in the assisted area in which the other permanent establishment is situated.

(2) Large investment projects with an investment value exceeding €50 million¹⁴ which overwhelmingly serve to relocate permanent establishments or parts of permanent establishments from a non-assisted area to an assisted area of the GRW and which have a negative employment balance of more than one-third are excluded from support unless this takes place in consensus between the Länder concerned. The employment balance is ascertained by placing the number of jobs in the permanent establishments to be closed down or cut back in relation to the number of jobs to be created in the new permanent establishment.

2.2.4 Consideration of applications

(1) The granting authority decides whether an investment project is eligible to be considered for support and, if necessary, ranks projects according to their priority by applying the criteria set out in number 2.3.2 and number 2.5.1(3) and used to determine if a project is worthy of support.

(2) The authority also verifies that

- a) the investment project is in line with the objectives and underlying principles of regional planning and meets any other requirements related to regional planning;
- b) the project has been approved by the competent authorities;
- c) measures have been taken to ensure that any harmful emissions (especially air and water pollution, soil contamination, noise) are avoided or limited to the absolute minimum, that proper waste disposal is guaranteed from the beginning of operations at the project that receives direct support, or from the beginning of operations at the permanent establishments of trade and industry that are being established in industrial or commercial sites made available with the support of GRW funds;
- d) that any project that involves the creation of new jobs or the safeguarding of existing ones has been cleared by the competent employment agency;
- e) the investment project
 - aa) is in line with the area development plan(s) of the municipality and possibly of the various neighbouring municipalities, as laid down pursuant to the Federal Building Code (BauGB); in the absence of an area development plan, it is mandatory for the project to meet the requirements under the zoning and building statutes (Sections 29ff Federal Building Code);
 - bb) is connected to urban modernisation and development action taken pursuant to the Federal Building Code and, if so, is conducive to reaching these intended goals for redevelopment (Sections 139, 149, 164(a) and (b), 165(4) and 171 Federal Building Code);
 - cc) is in line with the outcomes of the agricultural and structural preliminary plan drawn up in compliance with the principles governing support under the Joint Task for the Improvement of Agricultural Structures and Coastal Protection.

2.2.5 Implementation period

As a matter of principle, investment projects are only eligible to be considered for support if they are implemented within a period of 36 months.

2.3 Requirements for assistance

Investment projects which make a significant contribution to attaining the objectives cited in number 1.1 are eligible for support. This is assessed on the basis of the nature of the activity of the permanent establishment (number 2.3.1) and the effects of the investment project on the regional economy (number 2.3.2). Both preconditions must be met.

¹⁴ Cf. Article 2 number 52 GBER.

2.3.1 Nature of the activity of the permanent establishment

(1) Investment projects which, due to the nature of the activity of the permanent establishment, make a contribution to attaining one of the objectives cited in number 1.1 are eligible for support.

(2) In the case of the economic activities listed in Annex 4.1 (positive list)¹⁵, this is deemed to be the case as long as the investment project triggers significant regional economic effects in accordance with number 2.3.2.

(3) Investment projects relating to the economic activities listed in Annex 4.2 (conditional positive list) can be funded if, in addition to the existence of significant regional economic effects in line with number 2.3.2, at least one of the following criteria oriented to strengthening regional productivity or the regional income base is met:

- a) The investment project takes place in a permanent establishment subject to a collective agreement within the meaning of the Collective Agreements Act in the version in force at the time or with remuneration at least equal to the collective agreement. The compliance with the collective agreement must exist at the time when the application is made, and continue to exist irrespective of the duration of the collective agreements throughout the investment period of three years and during the monitoring period (number 2.3.2(2)). Sentence 2 applies accordingly to permanent establishments with remuneration equal to the collective agreement.
- b) The investment project takes place in a permanent establishment whose gross payroll rises by an annual average of at least 3.5 per cent within a five-year period until the end of the monitoring period at the latest. The initial value of the gross payroll of the permanent establishment to be funded must be ascertained from the gross earnings of the last four quarters before submission of the application. The relevant payroll is the total of the gross earnings paid to the employees in the permanent establishment.¹⁶

(4) In justified individual cases, support can also go towards investment projects in permanent establishments whose activity cannot be assigned to one of the economic activities listed on the positive list or on the conditional positive list. For this to apply, the following conditions must be fulfilled:

- a) The main activity of the permanent establishment cannot be assigned to any of the activities listed in number 2.7.1(2) (negative list).
- b) There are significant regional economic effects in line with number 2.3.2.
- c) At least one of the criteria oriented to the strengthening of regional productivity or the regional income base in line with paragraph 3 letter a and b is met.
- d) The subcommittee has given its approval. The involvement of the subcommittee requires a concept related to the regional economic structure which shows that the investment project generates regional economic effects which clearly go beyond the fulfilment of the preconditions in number 2.3.2. Relevant criteria include the significance for the regional labour market or value chain.

2.3.2 Significant regional economic effects of the investment project

(1) Investments are only eligible to be considered for support if the scale of the investment or the number of permanent jobs to be created by the investment leads to expectations of significant regional economic effects.

(2) Consequently, investment projects are only eligible to be considered for support

- a) if the amount of the investment over one year, at the time of the application, exceeds the average amount of write-offs earned over the past three years – excluding special write-offs – by at least 50 per cent, or
- b) if there is an increase of at least 10 per cent in the total number of permanent jobs at the permanent establishment at the time when the application is submitted.¹⁷ It is possible for vocational-training places to be included in this figure alongside permanent jobs. During a monitoring period of at least five years following completion of the investment project, it is mandatory for the jobs created or safeguarded as part of the investment project to be filled or at least permanently advertised on the job market.

¹⁵ In accordance with the Classification of Economic Activities (WZ), 2008 edition (WZ 2008).

¹⁶ Members of the management and the board do not count towards these employees. Extras, bonuses, commission and awards are included where they were paid to the employees in the reference period and they are not one-off annual payments. As soon as the increase in the gross payroll reaches a level of remuneration equal to the collective agreement in the permanent establishment to be funded, the criterion is deemed to be met.

¹⁷ The jobs target pursuant to Article 17(5)(b) GBER must also be met in cases of wage-cost-related grants for SMEs based in D-areas.

Where the support is made subject to the depiction of the significant regional economic effects in terms of the number of permanent jobs created in an existing permanent establishment, to the extent that several permanent establishments within a municipality exist, all of the jobs which exist in the other permanent establishments of the municipality at the time of application must be retained at least for the duration of the monitoring period. If this requirement is not met, only the number of jobs will be considered which result from the balance of the newly created jobs in the assisted permanent establishment(s) against the jobs shed in the other permanent establishments.

(3) In derogation of paragraph 2 sentence 1, the following investment projects are eligible to be considered for support if the amount of the investment exceeds the amount of write-offs earned over the past three years – excluding special write-offs – by at least 25 per cent, or if there is an increase of at least 5 per cent in the total number of permanent jobs at the permanent establishment:

- a) investment projects in permanent establishments in which, at the time of the application, in the case of SMEs the annual average total expenditures and in the case of large companies the internal expenditure on research and development was either higher than the sectoral¹⁸ average in terms of its relationship to turnover as an average for the last three years, or will exceed the sectoral average until the end of the investment period,
- b) investment projects under number 2.4.1 or number 2.4.2 in permanent establishments in which the greenhouse gas footprint is improved by increases in energy efficiency or reductions in direct emissions by at least 20 per cent by the end of the investment period,
- c) investment projects in line with number 2.4.3 which are implemented on a stand-alone basis or as part of an investment project in line with number 2.4.1 or number 2.4.2.

(4) The requirements set out in paragraph 1 are deemed to be met if one of the following criteria is met:

- a) investments by an enterprise in a municipality in which it has not previously invested;
- b) investments by an enterprise which is diversifying its activities¹⁹;
- c) investments to establish a new permanent establishment (investments to establish), provided that all of the jobs which exist in the other permanent establishments of the municipality at the time of application are retained at least for the duration of the monitoring period (paragraph 2 sentence 3),
- d) investments to acquire assets of a permanent establishment that has been closed down, or that would have been closed down had it not been for this acquisition.

(5) For large enterprises or SMEs, where support goes towards investment in the diversification of production at the existing permanent establishment, the costs eligible as State aid must exceed the book value of the assets which are to be reused by at least 200 per cent; the book value as defined for the financial year preceding the work applies.

2.4 Eligible investment projects

2.4.1 Investment projects of SMEs

(1) In the case of the applicant being an SME, the following types of investments are eligible to be considered for support:

- a) investments to establish a new permanent establishment (investments to establish);
- b) investments to expand the capacity of an existing permanent establishment (investments to expand);
- c) investments to diversify production at a permanent establishment to include output that has previously not been produced there;
- d) investments to overhaul the entire process of production at an existing permanent establishment;

¹⁸ Based on the (two-digit level) classification of the Federal Statistical Office, edition 2008 (WZ 2008) and the current reporting years of the survey of research and development in the commercial sector carried out on behalf of the Federal Ministry of Education and Research by SV Wissenschaftsstatistik.

Alternatively, the spending on research and development can be shown by means of presentation of corresponding documentation from the BSFZ (certification body for the issuance of a certificate that the R&D project is eligible for support) from the year of or the year before the time of application.

¹⁹ The criterion here is that the new activity must not be considered as belonging to the same class (four-digit numerical code) of the NACE Rev.2 statistical classification of economic activities (cf. Article 2 number 50 GBER).

- e) investments to acquire assets of a permanent establishment that has been closed down, or that would have been closed down had it not been for this acquisition, provided that the assets are being acquired by an investor that has no relationship to the seller. In the case of small enterprises that are being taken over by family members of the original owner, or by former employees, the condition that the assets must be acquired by a third party unrelated to the seller is waived. An acquisition of shares of an enterprise is not considered to be an initial investment.
- (2) Investments to modernise the production process are to be considered for support up to the maximum amount for de minimis aid over a period of three years.²⁰

2.4.2 Investment projects of large enterprises

In the case of the applicant being a large enterprise, the following types of investments under Article 2 number 51 GBER are eligible to be considered for support:

- a) investments to establish a new permanent establishment (investments to establish);
- b) investments to diversify production at a permanent establishment, provided that the new activity is not the same or a similar activity as the activity that was previously conducted at the permanent establishment²¹, and
- c) investments to acquire assets of a permanent establishment that has been closed down, or that would have been closed down had it not been for this acquisition, provided that the assets are being acquired by an investor that has no relationship to the seller and provided that the new activity to be conducted with the assets acquired is not the same or a similar activity as the activity that was previously conducted at the permanent establishment²². An acquisition of shares of an enterprise is not considered to be an initial investment which establishes a new economic activity.

2.4.3 Special investment projects to accelerate the transformation to a climate-neutral and sustainable economy

The following investment projects are eligible for support irrespective of the size of the company:

2.4.3.1 Investment projects with special environmental protection effects

(1) Investment projects which go beyond the national and Union rules on environmental protection or improve environmental protection where such rules are lacking (environmental aids) are eligible for support in line with the provisions of Article 36(1), (1a), (2) letter a, b, (2b) and 3 sentence 1 GBER.

(2) A precondition for support is that the measure does not fall within the scope of Article 36a, 36b and 38 to 48 GBER.²²

(3) Only the costs or the additional costs of the investment project within the meaning of Article 36(4)GBER²³ are eligible for support which are needed to exceed the prescribed level of environmental protection. Costs not directly related to the improvement of environmental protection are not eligible for support. The eligible costs can also be determined in accordance with Article 36(1)) GBER.²⁴

(4) The combined state-aid intensity of the support granted from the GRW and any other public-sector funds must not exceed 40 per cent of the eligible costs. For small enterprises, the aid intensity can be raised by 20 percentage points, and by 10 percentage points for medium-sized enterprises. In the case of investment in C-areas, the state-aid intensity can be increased by 5 percentage points. State aid intensities under sentences 1, 2 and 3 must be reduced in each case by 50 per cent if the eligible costs are determined under Article 36 (11) GBER.

(5) In the case of investment projects which are part of an investment project under number 2.4.1 or number 2.4.2, the eligible costs must be clearly distinguished in order to exclude double funding.

²⁰ The De minimis Regulation is the basis for the support.

²¹ The criterion here is that the new activity must not be considered as belonging to the same class (four-digit numerical code) of the NACE Rev.2 statistical classification of economic activities (cf. Article 2 number 50 GBER).

²² Cf. Article 36(1a) GBER.

²³ Determination of the additional costs using a counterfactual scenario (cf. Article 36(4) GBER).

²⁴ Determination of the eligible costs without the use of a counterfactual scenario.

2.4.3.2 Investment projects with special energy efficiency effects

(1) Investment projects which go beyond the national and Union rules on energy efficiency gains resulting from non-building-related measures are eligible for support in line with the provisions of Article 38(1) to (2) GBER.

(2) Only the costs or the additional costs of the investment project within the meaning of Article 38(3) GBER²⁵ are eligible for support which are needed for the improvement in energy efficiency. Costs not directly related to the improvement of energy efficiency are not eligible for support. The eligible costs can also be determined in accordance with Article 38(8)) GBER.²⁶

(3) The combined state-aid intensity of the support granted from the GRW and any other public-sector funds must not exceed 30 per cent of the eligible costs. For small enterprises, the aid intensity can be raised by 20 percentage points, and by 10 percentage points for medium-sized enterprises. In the case of investment in C-areas, the state-aid intensity can be increased by 5 percentage points. State aid intensities under sentences 1, 2 and 3 must be reduced in each case by 50 per cent if the eligible costs are determined under Article 38(8) GBER.

(4) In the case of investment projects which are part of an investment project under number 2.4.1 or number 2.4.2, the eligible costs must be clearly distinguished in order to exclude double funding.

2.4.3.3 Investment projects to cover in-house energy needs from renewable sources

(1) Investment projects which realise energy generation by the company from renewable sources with the bulk of the energy covering the permanent establishment's own needs are eligible for support in line with the provisions of Article 41(1) and (5) GBER. In accordance with the provisions of Article 41(1a) GBER, electricity storage facilities which are part of the investment project to generate energy for in-house use from renewable sources (combined project)²⁷ are also eligible for funding. The storage facility must draw at least 75 per cent of its annual energy from the directly connected installation to generate renewable energy.

(2) Investment projects to generate renewable hydrogen and to cogenerate heat and power on the basis of renewable energy are not eligible for funding under Article 41 GBER. Exceptions are corresponding projects in the areas of the GRW Special Programme "Accelerating the transformation in the eastern German refineries and ports".²⁸ The GRW sub-committee can also decide for these areas that, in the case of corresponding investment projects, the requirements in accordance with number 2.3.2(1) are deemed to be fulfilled as long as they will be able to contribute to the transformation of the region in a special way in future.

(3) The total investment costs are eligible for support in line with the provisions of Article 41(6) GBER. Investments in heat pumps must meet the requirements of Annex VII of Directive (EU) 2018/2001²⁹. It is not possible to receive support at the same time as claiming support under the Renewable Energy Sources Act for the same eligible costs. This is without prejudice to the possibilities to make use of other direct marketing.

(4) The combined state-aid intensity of the support granted from the GRW and any other public-sector funds must not exceed 45 per cent of the eligible costs for investment projects to generate energy and for projects in accordance with number 2.4.3.3(2) sentence 2, and for investment projects to store electricity 30 per cent of the eligible costs. For small enterprises, the aid intensity can be raised by 20 percentage points, and by 10 percentage points for medium-sized enterprises.

(5) In the case of investment projects which are part of an investment project under number 2.4.1 or number 2.4.2, the eligible costs must be clearly distinguished in order to exclude double funding.

²⁵ Determination of the additional costs using a counterfactual scenario (cf. Article 38(3) GBER).

²⁶ Determination of the eligible costs without the use of a counterfactual scenario.

²⁷ With regard to the verification of compliance with the thresholds stipulated in Article 4 GBER, all the components of an investment (generation and storage) are regarded as parts of one and the same project.

²⁸ See Annex 5.

²⁹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328 of 21 December 2018, p. 82), in the version currently in force.

2.5 Maximum rates of support, aid intensity, share of investment borne by recipient

2.5.1 Maximum rates of support

(1) In the assisted areas pursuant to number 1.2³⁰, the combined aid intensity of the support granted to an investment project from GRW funds and any other public-sector funds under number 2.4.1 and number 2.4.2 must not exceed the following maximum rates of support:³¹

- a) C-areas with a GDP per capita of less than or equal to 100 per cent of the EU-27 average or an unemployment rate of at least 100 per cent of the EU-27 average:³²

Permanent establishments of small enterprises	35 per cent
Permanent establishments of medium-sized enterprises	25 per cent
Permanent establishments of large enterprises	15 per cent

- b) C-areas with a GDP per capita of 100 per cent or more of the EU-27 average and an unemployment rate of 100 per cent or less of the EU-27 average:³³

Permanent establishments of small enterprises	30 per cent
Permanent establishments of medium-sized enterprises	20 per cent
Permanent establishments of large enterprises	10 per cent

In C-areas with a population decline of more than 10 per cent from 2009 to 2018, the maximum rates of support under a) and b) above may be increased by 5 percentage points.³⁴

For C-areas bordering on A-areas, an increased maximum rate of support applies for the entire duration of the current programming period. This is set so that the gap between the maximum rates of support of the two areas is no more than 15 percentage points.³⁵

- c) D-areas:

Permanent establishments of small enterprises^{36, 37} 20 per cent

Permanent establishments of medium-sized enterprises^{36, 37} 10 per cent

(2) Furthermore, investment projects throughout the assisted area can be awarded support up to the maximum amount for de minimis aid over a period of three years.³⁸ The conditions for support and obligations prescribed in number 2 must be met. By way of derogation from paragraph 1, the rate of support from GRW funds may in

³⁰ Cf. the list of Assisted Areas and the Map of Areas Receiving Assistance in the period from 2022-2027 in Annex 5.

³¹ According to Article 14(12) GBER, in the case of large investment projects, the aid must not exceed the adjusted amount of support calculated in accordance with the mechanism defined in Article 2 number 20 GBER.

Eligible costs	Adjusted maximum rate of support
Up to €55 million	100% of the maximum rate of support applying in the region
Amount between EUR 55 million and EUR 110 million	50% of the maximum rate of support applying in the region
Amount exceeding EUR 110 million	34% of the maximum rate of support applying in the region under point 90 in conjunction with point 19 number 3 of the regional aid guidelines (individual notification required)

It is not possible for SME supplements to be granted for large investment projects.

³² Cf. point 182 number 4 of the regional aid guidelines in conjunction with point 186.

³³ Cf. point 182 number 3 of the regional aid guidelines in conjunction with point 186.

³⁴ Cf. point 188 of the regional aid guidelines.

³⁵ Cf. point 184 of the regional aid guidelines.

³⁶ The legal basis for all investment aid granted to SMEs in D-areas is set out in Article 17 GBER. The threshold pursuant to Article 4(1)(c) GBER of €8.25 million per company and investment project applies.

³⁷ The requirement for individual notification set out in Article 4(1) GBER and the requirement for documentation to be retained for ten years pursuant to Article 12 GBER must be complied with.

³⁸ The De minimis Regulation is the basis for the support.

each case exceed the respective rate of support under paragraph 1 letter b by a maximum of 20 percentage points.

To this end, the eligibility of investment projects of large enterprises is determined in derogation of number 2.4.2 in accordance with number 2.4.1(1). In the case of SMEs, investments which serve to modernise the production process are also eligible for support (number 2.4.1(2)). Paragraphs 1 and 4 do not apply to support under this paragraph.

(3) Furthermore, investment projects throughout all of the assisted areas for which an application was approved by 31 December 2025, can receive support on the basis of the Federal Framework for Transformational Technologies, in the version current at the time. The precondition is that the conditions for support and obligations prescribed in number 2, and the preconditions of the Federal Framework for Transformational Technologies, must be met. To this end, the eligibility of investment projects of large enterprises is determined in derogation of number 2.4.2 in accordance with number 2.4.1(1). Paragraphs 1 and 4 do not apply to support under this paragraph.

(4) The rates of support specified for C-areas are maximum rates of support and it is only possible for this maximum support to be granted in full where an individual project has a special structural impact. The specific definition of special structural impacts is a matter for the Länder, taking account of regional priorities.

2.5.2 Aid intensity

Aid intensity is defined as gross grant equivalent, i.e. the discounted value of the aid as a percentage of the discounted value of the eligible cost as it stands at the time of the grant.

2.5.3 Calculating the amount of support

The amount of support that is granted in regional aid and in investment aid for SMEs is calculated based on the eligible costs of the tangible and intangible goods which form the fixed assets of the initial investment (capital grants), or of the wage costs linked to the jobs directly created by the investment project (wage grants). Where the aid is cumulated with other types of aid for capital investment and/or wage grants, the combined gross grant equivalent of the support must not exceed the most favourable maximum amount that is permissible under the rules that apply for the calculation of each type of support. To calculate the total amount of support, the gross grant equivalents for each type of support are added up. In cases where expenditure that qualifies for regional aid qualifies – in part or in total – for other programmes that serve other objectives, it is possible for the portion of the expenditure that qualifies for both types of support to be subject to the maximum rate of support that is more favourable.

2.5.4 Contribution made by the beneficiary himself/herself

The contribution to the investment that is made by the beneficiary himself/herself, using equity or external funding, must at least be equivalent to 25 per cent of the eligible costs. This minimum contribution by the beneficiary must be made without the use of any public-sector support.

2.5.5 Nominal amount

It is possible for aid intensity to be calculated based on the nominal amounts of GRW grants, provided that the aid intensity defined as the gross grant equivalent does not exceed the maximum permissible rate.

2.5.6 Loans

(1) The gross grant equivalent of support granted in the form of low-interest loans is defined as the difference between the interest rate paid and the reference rate which is to be determined using the method stipulated by the European Commission³⁹.

(2) Subordinated loans are not eligible to be considered for support.

³⁹ The reference rate is set in line with the provisions set out in the Communication from the Commission on the revision of the method for setting the reference and discount rates (2008/C 14/02).

2.5.7 Guarantees

The gross grant equivalent of support granted in the form of guarantees is calculated using the methods approved by the European Commission⁴⁰.

2.5.8 Obligation to notify to the European Commission

(1) Aid is subject to individual notification⁴¹ to the European Commission if the amount of the aid (granted from GRW funds and, if applicable, from other programmes) exceeds the applicable notification threshold.

The following notification thresholds apply

- a) to regional investment aid: the 'adjusted maximum amount of state aid' calculated using a method that is in accordance with Article 2 number 20 GBER for an investment with eligible costs of €110 million (Article 4(1)(a) GBER⁴²),
- b) investment aid for SMEs under Article 17 GBER (cf. footnote 36) €8.25 million per enterprise and investment project (Article 4(1)(c) GBER),
- c) investment aid under Article 36, 38 and 41 GBER €30 million per enterprise and investment project (Article 4(1)(s) GBER).

(2) In addition to this, regional aid⁴³ is also subject to mandatory notification if the recipient does not confirm that he/she has not undertaken a relocation⁴⁴ from the territory of another party of the Agreement on the European Economic Area within the two years preceding the application for aid to the permanent establishment in which the initial investment for which the aid is applied is to be undertaken, and also does not commit not to do this in the two years following the completion of the initial investment for which the aid is applied.

2.6 Eligible costs

2.6.1 Right of choice

It is possible for GRW funds for projects under number 2.4.1(1) or 2.4.2 to be granted in the form of capital grants or low-interest loans pursuant to number 5.3 or in the form of wage grants. The investor shall be able to choose between these options.

2.6.2 Capital grants and low-interest loans

(1) Costs eligible for capital grants and low-interest loans include:

- a) the costs for the procurement or manufacture of the physical fixed assets forming part of the investment project (including buildings, installations, machinery);
- b) the costs for the procurement or manufacture of movable assets predominantly used within the assisted area⁴⁵ or for the permanent establishment in the assisted area⁴⁶,

⁴⁰ Further information on how to calculate the gross grant equivalent of support granted in the form of guarantees can be found on the website at <https://www.pwc.de/de/branchen-und-markte/oeffentlicher-sektor/beihilfewertrechner.html>.

⁴¹ Cf. number 2.1.2 for a definition of 'individual investment'.

⁴²

Maximum aid intensity in accordance with Annex 5 without increasing the rate of support for SMEs	Notification threshold
10%	€8.25 million
15%	€12.38 million
20%	€16.50 million
25%	€20.63 million

⁴³ This requirement does not apply to investment aid granted to SMEs in D-areas (cf. footnote 36).

⁴⁴ Cf. Article 2 number 61a GBER.

⁴⁵ If moveable assets are used in the context of teleworking, the place of performance is considered a dependent part of the company's permanent establishment.

⁴⁶ This comprises the costs for the procurement or manufacture of unmanned aircraft and unmanned watercraft which are predominantly used within the assisted area or for the permanent establishment in the assisted area and do not primarily serve the purpose of transportation,

- c) the costs for the procurement of intangible assets; for SMEs this applies to the full amount of the costs of the total eligible investment project; for large enterprises this applies to no more than a maximum of 50 per cent of the total eligible investment costs. Intangible assets mean patents, operating licences or patent-protected technical expertise or technical expertise that is not patent-protected. Intangible assets are only eligible if
 - aa) they are being capitalised and can be written off;
 - bb) the investor has acquired them from a third party (not a 'linked enterprise' or an enterprise that is affiliated with the investor in economic or legal terms, or at the level of the individuals involved) and at market conditions; and
 - cc) provided that the assets are used solely within the permanent establishment that is in receipt of the support.
- d) hired or leased assets, provided that the risk associated with maintenance of the assets for which support is received lies with the hire-purchaser or lessee.
 - aa) It is mandatory for hire-purchase or leasing agreements for assets other than land or buildings to take the form of a financing lease that results in ownership of the assets for which support is granted being transferred to the investor at the end of the term. In these cases, it is mandatory for the hired or leased assets to be capitalised by the applicant at the time when the agreement is concluded.
 - bb) The minimum term for hire or leasing agreements for land or buildings is five years; in the case of SMEs, the minimum term expires no earlier than three years after the estimated date of completion of the investment project. It is only possible for grants to be given if the lessor and the applicant accept joint and several liability for any obligation to repay the grant. It is possible for the lessor's joint and several liability to be reduced in accordance with the extent to which the benefits of the grant are passed on to the beneficiary.
- e) in the case of an acquisition of a permanent establishment, the eligible costs for the procurement of the physical fixed assets, up to their market price. Any support that has been previously granted to the assets must be duly taken into account. Any costs for the procurement of assets for the procurement of which support has already been given are not eligible for support.
- f) the capitalised value of land that is indispensable to the investment project for which an application has been submitted, up to the market price of the land.

(2) The following costs are not eligible for support:

- a) investments made to replace existing assets;
- b) any costs for the procurement or manufacture of cars, vans, trucks, omnibuses and rolling stock and other vehicles that are approved for road traffic and mainly serve the purpose of transportation; manned aircraft and watercraft and unmanned aircraft and watercraft that primarily serve the purpose of transportation also do not count as eligible,
- c) any costs for the procurement of used assets, unless the investment is to acquire the assets of a permanent establishment that has been closed down or would have been closed down without this acquisition, or unless the used assets are acquired by a startup small or medium-sized enterprise. Used assets are only eligible for support if they are not being purchased from 'linked enterprises' or enterprises that are affiliated with the investor in economic or legal terms, or at the level of the individuals involved, and provided that no aid has been made available for these assets at any previous point in time. Any previous support granted for assets must be duly taken into account when calculating the eligible costs.
In the case of small enterprises that are being taken over by family members of the original owner, or by former employees, the condition that the assets must be acquired by a third party unrelated to the buyer is waived;
- d) borrowing costs that can be capitalised (interest to be paid over the construction period)

(3) Where an investment is made in connection with the relocation of a permanent establishment, it is mandatory for any (potential) proceeds from the sale of the former permanent establishment and for any amount received in compensation payments (due, e.g., pursuant to the Federal Building Code) to be deducted from the amount of investment costs that are eligible for support.

(4) It is mandatory for assets for which support has been received to remain within the permanent establishment for which support has been received for a minimum of five years after completion of the investment project, unless they are replaced with assets that are of the same value or higher. The assets replacing the assets for which support has been received are not again eligible for support.

(5) It is only possible for support to be provided for the portion of the investment cost that does not exceed €750,000 per newly created permanent job, or €500,000 per permanent job that has been safeguarded.

2.6.3 Wage grants

(1) Costs that are eligible for wage grants include the cost of the wages that are paid over a period of two years to persons who have been recruited. The precondition is that jobs are tied to an investment project under number 2.4.1 or number 2.4.2. It is mandatory for the majority of the jobs that have been newly created to fulfil one of the following criteria:

- a) jobs that require skills that are above average;
- b) jobs that are linked to high value creation; or
- c) jobs in an industry in which there is major capacity for innovation.

(2) Wage costs are defined as the gross wages (before tax) and statutory social-security contributions. Any grants received as part of an employment-support scheme must be deducted from the amount of the wage grant. A job is deemed to be linked to the investment if it revolves around an activity that has to do with the investment, and if it is created within three years of completion of the investment. The level of support is calculated based on the number of jobs that have been newly created and have led to a net increase in the number of persons employed compared to the number of persons employed, on average, during the twelve months preceding the application. It is mandatory for every job for which support has been received to remain filled for a minimum of five years.

(3) It is possible for half of the wage grant to be paid out to the beneficiary at the time at which the jobs are filled for the first time, and for the remaining half to be paid out after the first year of employment.

2.7 Exclusion from support

2.7.1 Exclusion from support

(1) Support may not be granted to enterprises in difficulty unless support is granted for the purpose of disaster relief after a natural disaster has occurred or as transparent state aid under the De minimis Regulation.⁴⁷

(2) In particular, enterprises whose main activity is in the following sections and divisions of WZ 2008 are excluded from support (negative list):

- a) A – Agriculture, forestry and fisheries
- b) B – Mining and Mining and extraction of stones and earths
- c) C 24 – Metal production and processing as long as “steel industry” in line with Article 13(1) in conjunction with Article 2 number 43 GBER
- d) D – Energy supply
- e) E – Water supply, waste water and waste management (except for 38.3 and 39)
- f) F 41 – Building
- g) F 42 – Civil engineering
- h) F 43 – Preparatory construction site work, building installation and other finishing trades
- i) G 45 – Motor vehicle trade; maintenance and repair of motor vehicles
- j) G 46.1 – Wholesale on a fee or contract basis
- k) G 47 – Retail trade, except of motor vehicles and motorcycles) (except 47.91)
- l) H – Transport (cf. also Article 13(b) in conjunction with Article 2 number 45 GBER) and storage (except for 52.29.9)
- m) K – Provision of finance and insurance activities
- n) L – Real estate and housing
- o) N – Provision of other commercial services
- p) O – Public administration and defence; compulsory social security
- q) P – Education and teaching
- r) Q – Health and social services sector
- s) R – Arts, entertainment and recreation (except for 93.2)
- t) S – Provision of other services
- u) T – Private households with household staff; manufacture of goods and provision of services by private households for in-house needs without a clear main field of activity
- v) U – Activities of extraterritorial organisations and bodies

⁴⁷ Cf. Article 1(4)(c) in conjunction with Article 2 number 18 GBER or cf. Article 4 De minimis Regulation.

2.7.2 Limitation of the scope of the support

(1) Under state-aid rules, there is limited scope for supporting the ‘production and marketing of agricultural produce’⁴⁸ and of fishery and aquaculture products’⁴⁹.

(2) In principle, investment projects in the shipbuilding sector are eligible to be considered for support. It must, however, be borne in mind that, under the regional aid guidelines, all investment projects in shipyards are subject to individual notification to the European Commission if they are linked to the construction, conversion or repair of self-propelled commercial vessels within the meaning of No 12(d) of the former Framework on State aid to shipbuilding⁵⁰.

2.8 Revocation of approval, and recovery of funds in cases of failure to meet the requirements set out in the Coordination Framework

2.8.1 Principle of recovery of support

In cases where, following completion of the investment project or the relevant measure, there is failure to meet the requirements that are set out in the Coordination Framework and upon which the relevant support has been approved, the approval must be revoked and any funds paid out recovered from the beneficiary.

2.8.2 Refraining from revoking the approval and recovering the funds

2.8.2.1 Responsibility

(1) It is only possible for a grant approval not to be revoked and funds not to be recovered where the beneficiary can demonstrate that the failure to meet the requirements pursuant to number 2.3.2 or number 2.6.2(5) has resulted from certain circumstances through no fault of his/her own, which he/she could not have foreseen at the time of application even if he/she has acted with an honourable merchant’s due diligence.

(2) Cases in which the beneficiary is not considered to be at fault for an extension of the implementation period notably include

- a) those where delays in the provision of supplies or services have been exclusively caused by third parties;
- b) those where, despite diligent cooperation on the part of the investor, there have been unexpected delays in the planning procedures conducted by the state;
- c) those where poor ground conditions, extreme weather conditions, opposition by third parties, or specific terms imposed by the authorities have led to delays in implementation.

2.8.2.2 Requirements to be met

(1) It is possible to refrain from revoking an approval and from recovering funds that have already been granted

- a) pro rata, where the employment targets set out in 2.3.2(2) sentence 1 letter b or number 2.6.2(5) have been missed in no more than 30 months within the five-year monitoring period following completion of the investment (cf. number 2.3.2(2) sentence 3).
- b) where the prospective employment targets set out in number 2.3.2(2) sentence 1 letter b or number 2.6.2(5) have been missed in no more than 36 months within the five-year monitoring period following completion of the investment (cf. number 2.3.2(2) sentence 3) due to structural market changes. If a decision is made not to revoke the approval, the five-year monitoring period pursuant to number 2.3.2(2) sentence 3 is extended by the cumulated time periods during which the employment targets have not been met, to up to a maximum of eight years.

⁴⁸ There is no scope for aid to be granted for the production or marketing of agricultural produce,
a) where the amount of the aid is calculated based on the price or quantity of such produce purchased from primary producers or put on the market by the enterprises concerned;
b) where the aid is conditional on being partly or entirely passed on to primary producers (cf. Article 1(3)(c) GBER).
Cf. also the 2014 Community guidelines for State aid in the agriculture and forestry sector (in particular section 1.1.1.4).

⁴⁹ Cf. 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 Treaty on the Functioning of the European Union (General Block Exemption Regulation applicable to the fishery and aquaculture sector) (OJ L 369 of 24 December 2014, p.37).

⁵⁰ Cf. OJ C 364 of 14 December 2011, p. 9.

- c) pro rata or in full, where, as a result of fundamental changes in the market structure, the number of permanent jobs lost in the permanent establishment is so high that the minimum employment targets set out in number 2.3.2(2) sentence 1 letter b or 2.6.2(5), have proved impossible to meet.
- d) where the envisaged jobs have not been filled solely because the labour market has been unable to deliver.
- e) where the increase in the gross payroll under number 2.3.1(3) letter b has subsequently become unreasonable up to the end of the duration [of five years] since otherwise there is likely to be a loss of orderly economic and financial capabilities. Here, the impediment to the increase must be weighed up against the original interest in fulfilment of the condition attached to the support.
- f) where the minimum amount of investment pursuant to number 2.3.2(2) sentence 1 letter a has been missed only by a small margin, as a result of an extension of the implementation period based on which the approval was granted, or as a result of a drop in prices for the relevant assets, at a time later than the date of application. The minimum amount of investment is not considered to have been missed only by a small margin where the amount that has been invested is more than 10 per cent lower than the minimum amount of investment pursuant to number 2.3.2(2) sentence 1 letter a.
- g) for the part of the investment that has already been carried out, even within the implementation period based on which the approval was granted, if the investment amount required under number 2.3.2(2) sentence 1 letter a is not reached due to adjustments having to be made to the investment project as a result of fundamental changes in the market structure.
- h) where the employment targets set out in number 2.3.2(2) sentence 1 letter b or number 2.6.2(5) have been missed as a result of damage caused by natural disaster for which insurance cover is not available at a cost that is economically viable, and where the targets have been missed in no more than 36 months within the five-year monitoring period following completion of the investment (number 2.3.2(2) sentence 3), or where the requirement set out in number 2.6.2(4) for the investment to be retained for a minimum of five years is yet to be met.⁵¹

(2) As a matter of principle, the provisions set out above do not apply where the beneficiary is insolvent and ceases his/her business activities (with assets being sold separately), or in cases where the permanent establishment is shut down.

(3) This provision also applies accordingly for investment projects that have been approved on the basis of an earlier version of the framework plans/Coordination Framework.

2.8.2.3 Rules applying to small and medium-sized enterprises

In duly justified cases and in derogation of number 2.6.2(4) and 2.6.3(2), it is possible for non-compliance with the requirement for the investment to be retained for at least the minimum duration of five years not to result in the grant approval being revoked or in funds granted being recovered, provided that the beneficiary is a small or medium-sized enterprise and provided that the requirement for the investment to be retained for at least the minimum duration of three years has been met.

⁵¹ In cases where a decision is made not to revoke the approval and not to recover funds that have already been granted, based on the grounds that the requirement for the investment to be retained for a minimum of five years has not been met as a result of damage caused by natural disaster for which insurance cover is not available at a cost that is economically viable, the requirements set out in Article 50 GBER (Aid to make good the damage caused by certain natural disasters) apply accordingly. The specific grounds (natural disaster) on which the decision is made not to recover funds must be notified to the European Commission prior to the recovery being waived.

Annex 2: Application for public-sector financial support to trade and industry within the scope of the activities to promote regional economic development

1. General information

1.1

<div style="border: 1px solid black; width: 100px; height: 100px; margin: 10px auto;"></div>	To	<i>Not to be filled in by the applicant</i>
		Registration stamp (if cover letter is stamped, confirmation of receipt by the application centre will suffice)
		Date of receipt
		Date of approval
		Project no.

➔ In order to process your application, we require you to answer the questions set out below.

The legal basis for this process is set out in Section 4 of the Act on the Joint Federal/Länder Task for the Improvement of Regional Economic Structures of 6 October 1969 (Federal Gazette I, p.1861), as amended from time to time, in conjunction with the rules laid out in the Joint Coordination Framework, as amended from time to time. For information on additional legislation that applies in your *Land*, please refer to the Annex to this Application Form and/or consult the website of the Application Centre in charge of your application.

Please tick the boxes that are applicable. ☐

1.2 Applicant

Firm (name and address, municipality code number, if applicable) If different from the above: Investor (name and address, municipality code number, if applicable)	
Land	District / administrative region
Processed by: Phone / email address:	
Bank details Bank: BIC: IBAN:	
Legal form and treatment under tax and corporate law (if necessary, please elaborate)	Competent Tax Office
	Postcode / City/Town
	Tax no.

1.3 I/We apply for

- ☐ an investment grant made available under the framework for the Coordination of the Joint Task 'Improving Regional Economic Structures' (GRW)
- ☐ in the form of a grant for capital expenditure
 - ☐ in the form of an investment grant
 - ☐ in the form of a low-interest loan
 - ☐ in the form of a wage grant.
- ☐ financial support made available from the budget of the *Land*
- ➔ if applicable, please complete the supplementary form

to the value of €.....

1.4 Public-sector funding has been granted/requested for the following permanent establishment(s) listed under section 2.1:

<i>Investment period</i>	<i>Date of application and date and file reference of the notice of (non-)approval</i>
Start Month Year	
Completion Month Year	

Earlier applications will be used by the granting authority as a means to monitor success and as part of the decision process for this application.

1.5 Assessment of the shareholding structure of small and medium-sized enterprises

Do any of these statements apply?

- Is the permanent establishment part of an enterprise of which 25 per cent or more of the capital share or of the voting rights is directly owned by another enterprise or a public-sector entity, or owned jointly by two or more linked enterprises or public-sector entities?
- Does the enterprise hold a stake of 25 per cent or more in one or more other enterprises?
- Does the enterprise prepare a consolidated balance sheet of its own, or are its figures included in another enterprise's consolidated balance sheet?

☐ no

☐ yes ➔ Please describe the shareholding structure and the structure of the voting rights
(attach separate document if necessary):

1.6 Number of employees, annual turnover and annual balance sheet total of the enterprise⁵²

Number of employees ⁵³ on the enterprise's payroll	<input type="checkbox"/> up to 49 <input type="checkbox"/> 50 to 249 <input type="checkbox"/> 250 and more
Annual turnover	<input type="checkbox"/> up to €10 million <input type="checkbox"/> above €10 million up to €50 million <input type="checkbox"/> above €50 million
Annual balance sheet total	<input type="checkbox"/> up to €10 million <input type="checkbox"/> above €10 million up to €43 million <input type="checkbox"/> above €43 million

Not to be filled in by the applicant

SME within the meaning of Annex I of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (GBER) (OJ L 187 of 26 June 2014, p. 1)	
<input type="checkbox"/> Yes If yes: <input type="checkbox"/> small enterprise <input type="checkbox"/> medium-sized enterprise	<input type="checkbox"/> no

1.7 Information on any bail-out and restructuring aid granted prior to the application, and on the economic situation of the enterprise⁵⁴

Does the enterprise currently find itself in a situation of economic difficulty?

☐ No ☐ Yes → Please explain (attach separate document if necessary):

If so, are the permanent establishment, the enterprise, or the group still undergoing restructuring?

☐ No ☐ Yes → Please explain (attach separate document if necessary):

Has the permanent establishment, the enterprise, or the group received a bail-out, and is the loan yet to be repaid or the guarantee yet to expire?

☐ No ☐ Yes → Please explain (attach separate document if necessary):

Has the permanent establishment, the enterprise, or the group received restructuring aid, and is it still subject to a plan of restructuring?

☐ No ☐ Yes → Please explain (attach separate document if necessary):

⁵² For the enterprise and taking into account all of its partner enterprises and all linked enterprises within the meaning of 'SME' as defined in Annex I of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation – GBER) (OJ L 187 of 26 June 2014, p.1).

⁵³ For a definition see Annex I Article 5 GBER.

⁵⁴ Cf. Article 2 number 18 GBER.

2. Details about the investment project

2.1 Place of investment

Postcode	City/Town / part of the city/town	Street and number	
Code referencing the municipality	District	Land	
Enterprise no. of the permanent establishment for which support is requested, as assigned by the Federal Employment Agency (BA) <input type="checkbox"/> known (if necessary, request from the Federal Employment Agency, Eschberger Weg 68, 66121 Saarbrücken; Email: betriebsnummernservice@arbeitsagentur.de BA enterprise no.: <input type="text"/> <input type="checkbox"/> unknown, because the permanent establishment is new; <i>Note: information is to be supplied within 2 months after grant approval</i>			

Does the applicant have other permanent establishments in the same municipality?

- ☐ no ☐ Yes → Please indicate the sector and the address(es) of the permanent establishment(s):

Sector:
Address:

2.2 Type of investment project

- ☐ Investments to establish a new permanent establishment (investments to establish)
- ☐ Investments to expand the capacity of an existing permanent establishment (investments to expand) ⁵⁵
- ☐ Investments to diversify production⁵⁶ at a permanent establishment to include output that has previously not been produced there. The related new activity is classed as belonging to the same class (four-digit numerical code) of the NACE Rev.2 statistical classification of economic activities as the activity previously conducted at the permanent establishment.⁴
- ☐ Investments to diversify production at a permanent establishment, provided that the new activity is not the same or a similar activity as the activity that was previously conducted at the permanent establishment.

Is the new activity considered as belonging to the same class (four-digit numerical code) of the NACE Rev.2 statistical classification of economic activities as the activity previously conducted at the permanent establishment?

☐ yes ☐ no, but NACE

- ☐ Investment to overhaul the entire process of production at an existing permanent establishment (process innovation)⁴

⁵⁵ For large enterprises: De minimis aid as per number 2.5.1(2) of the Coordination Framework possible.

⁵⁶ In this context, “production” and “products” is understood to include services and the provision of services.

☐ Investment to modernise the production process (de minimis aid)

☐ Investment to acquire assets of a permanent establishment

Was the permanent establishment closed down prior to the acquisition of the relevant assets?


☐ yes ☐ no

Had it not been for this acquisition, would the permanent establishment have been closed down?

☐ yes ☐ no

Does the investment involve the acquisition of a small enterprise⁵⁷?

☐ yes ☐ no

 Does the party acquiring the permanent establishment have a relationship to the seller?

☐ yes, namely

☐ yes, he/she is related to the official owner

☐ he/she is a former employee

☐ no

Only to be answered if the applicant is a large enterprise: Is the new activity to be conducted with the assets acquired the same or a similar activity as the activity that was previously conducted at the permanent establishment?⁵⁸

☐ yes ☐ no

☐ Investment which enables the company to go beyond the national and Union rules on environmental protection or to improve environmental protection where such rules are lacking⁵⁹

☐ Investment which enables the company to go beyond the national and Union rules on energy efficiency gains via non-buildings-related measures⁶⁰

☐ Investment to cover in-house energy needs from renewable sources⁶¹

2.3 Description and justification of the investment project

A description of the envisaged investments and the future prospects for the permanent establishment (e.g. sales prospects) is to be provided on a **separate document attached to the application form**, which also lists all of the assets individually. The information must include facts about the enterprise's economic development and its development in terms of the legal structure (e.g. stakeholdings, supply of commodities and intermediate goods, output, capacity utilisation, turnover).

⁵⁷ Cf. Annex I GBER for a definition.

⁵⁸ The criterion here is that the new activity must not be considered as belonging to the same class (four-digit numerical code) of the NACE Rev.2 statistical classification of economic activities (cf. Article 2 number 50 GBER).

⁵⁹ Cf. number 2.4.3.1 of the Coordination Framework and Article 36 GBER.

⁶⁰ Cf. number 0 of the Coordination Framework and Article 38 GBER.

⁶¹ Cf. number 0 of the Coordination Framework and Article 41 GBER.

2.4 Type of economic activity performed at the permanent establishment

Identifier and code used in official statistical records ⁶²	Class (four-digit numerical code) under the NACE Rev. 2 statistical classification of economic activities ⁶³

Manufacturing programme or type of commercial activity

If the manufacturing of commercial activity is related to several industries or classes of industry, please provide further details, e.g. figures on output⁶⁴ and turnover broken down according to industry (if necessary, information can be provided in a **separate document attached to the application form**).

Details about collective agreements/remuneration equal to collective agreements and the gross payroll (only necessary if the activity of the permanent establishment is not covered by Annex 4.1)

Permanent establishment is subject to collective agreement: ☐ yes ☐ no
Wages in permanent establishment equal to collective agreement: ☐ yes ☐ no
Increase in gross payroll of at least 3.5 per cent as an annual average: ☐ yes ☐ no

Not to be filled in by the applicant

The permanent establishment is eligible for support due to the nature of its activity:

- based on the positive list
☐ yes ☐ no
- based on the conditional positive list
☐ yes ☐ no
- according to the individual notification
☐ yes ☐ no

⁶² The code used in the official statistical records to designate an economic activity is based on the statistical classification of economic activities published by the Federal Statistical Office in Wiesbaden, as amended from time to time.

⁶³ Cf. Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393 of 30 December 2006, p.1).

⁶⁴ Cf. footnote 56 referring to section 2.2.

3. Information relating to employment targets and to write-offs and book values associated with the permanent establishment

3.1 Number of permanent jobs provided at the time of application

Permanent jobs (1)			Vocational-training places (2)	Sum (1) + (2)
Women	Men	Diverse		
Of which agency workers:			---	

Additional information to be supplied if the application is for wage grants:

Number of persons employed (jobs) on average during the 12 months preceding the application	
--	--

3.2 Number of jobs following completion of the investment

- Number of **additional** permanent jobs envisaged for the time following completion of the investments listed in section 4:

Permanent jobs (1)			Vocational-training places (2)	Sum (1) + (2)
Women	Men	Diverse		

- Number of **safeguarded** permanent jobs envisaged for the time following completion of the investments listed in section 4:

Permanent jobs (1)			Vocational-training places (2)	Sum (1) + (2)
Women	Men	Diverse		

- Only to be answered if the application is for wage grants:*

Number of employees (jobs) after completion of the investment	
--	--

Not to be filled in by the applicant

Number of additional			At the time of application existing permanent jobs	Increase by the time of completion of the investment (in %)
Permanent jobs	Vocational-training places	Sum		

3.3 Information relating to investments that involve relocation

Has there been/Will there be a reduction of jobs at another permanent establishment at or at around the time of the investment described under section 2, and, if so, is this reduction in jobs linked to the investment in substance/nature?

☐ no

☐ yes → Please provide the following figures:

Number of permanent jobs formerly provided:
Number of jobs that have been/are to be cut:
Address of the permanent establishment:

Has an activity that is the same activity or an activity similar to⁶⁵ the one for which investment support is being requested been ceased or has a part of this activity been ceased by a permanent establishment in the territory of another contracting party to the Agreement on the European Economic Area (EEA) (original permanent establishment), either by the enterprise applying for support or by an enterprise linked to it, at any time during the two years preceding the application, or are there plans for such an activity to be ceased at a site located within the EEA within the two years following completion of the investment?

☐ no

☐ yes → Date of cessation of activity:

Address of the permanent establishment in question:

3.4 Write-offs earned over the three financial years preceding the application, excluding special write-offs

Year	Sum (in €)
	,--
	,--
	,--

Not to be filled in by the applicant

Annual average of write-offs earned (in €)	
Annual average of the investment volume for the envisaged investment project (in €)	
Annual average of the investment volume as a percentage of the average annual write-offs (in %)	

⁶⁵ The same activity or an activity similar to [it]: an activity falling under the same class (four-digit numerical code) of the NACE Rev. 2 statistical classification of economic activities as set out in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393 of 30 December 2006, p.1).

3.5 a) Book value of the re-used assets as it stood in the financial year preceding the beginning of work (only to be answered if the investment is an investment to diversify production⁶⁶ at the existing permanent establishment)

Year	Sum (in €)
	,--

Book value of re-used assets (in €):	,--
--------------------------------------	-----

Not to be filled in by the applicant

Costs of the investment volume that are eligible for support (in €)	
Eligible cost of re-used assets (in % of their book value)	

b) Total write-offs made on assets linked to the activity which is to be modernised that have been earned over the three financial years preceding the application (only to be answered if the investment involves fundamental changes being made to the production process at the existing permanent establishment)

Year	Sum (in €)
	,--
	,--
	,--
Total	,--

Not to be filled in by the applicant

Total write-offs made in the three financial years preceding the application (in €)	
Costs of the investment volume that are eligible for support (in €)	
Costs of the investment volume that are eligible for support, stated as a percentage of the write-offs made in the three financial years preceding the application (in €)	

3.6 Greenhouse gas emissions from the permanent establishment (to be completed only if the rules under number 2.3.2(3)b of the Coordination Framework are used)

Greenhouse gas emissions of the permanent establishment (kg of CO ₂ equivalent)		
	Year	Level of emissions (kg CO ₂ e)
Year (actual figure prior to application)		
Year (planned figure after end of investment period)		

⁶⁶ Cf. footnote 56 referring to section 2.2.

4. Investments

4.1 Volume of investments

		Sum (in €)
Total investments		
1.	Costs for the procurement of intangible assets	
2.	Costs for the procurement or manufacture of the physical fixed assets forming part of the investment project	
	Of which:	
	a) Land	
	b) Investments made to replace existing assets	
	c) Costs for the procurement or manufacture of vehicles	
	d) Used assets	
	e) Borrowing costs that can be capitalised (interest to be paid over the construction period)	
3.	Costs for the leasing/hiring of assets	
4.	Additional costs for environmental protection, energy efficiency effects or total investment costs to cover in-house energy needs from renewable sources	
5.	Other costs	
	Total for 1. to 5.	
6.	Proceeds from the sale of assets (in the case of relocation)	
7.	Compensation payments (in the case of relocation)	

➔ Please note: The total sum stated for the investments must be equivalent to the total sum of financing.

Have any pieces of public-sector land or any public-sector buildings been bought?

☐ no

☐ yes

Not to be filled in by the applicant

Cost of investment linked to the creation of new permanent jobs	
Cost of investment linked to the safeguarding of existing permanent jobs	
Total	
Eligible costs	

4.2 Time frame for the project

Start

Day	Month	Year

Completion

Day	Month	Year

4.3 If investments are to be made over several years (usually 36 calendar months)

Investments per year	
Year	Sum (in €)

5. Wage grants

Number of newly created permanent jobs	
Number of newly created permanent jobs that meet one of the criteria set out in number 2.6.3(1) of the Coordination Framework	
Total wage costs and statutory social-security contributions for newly created permanent jobs (over 2 years) (in €)	
Total eligible wage costs (€)	

6. Financing

Source	Sum (in €)
• Own funds	
• Funds borrowed (at market conditions; without support)	
• Public-sector financing support (e.g. low-interest loan, loan guarantee, investment grant)	
• Total financing (please provide proof that the project is fully and properly financed – e.g. a letter from the main bank)	

➔ Please note: The total sum of financing must be equivalent to the total sum stated for the investments.

Not to be filled in by the applicant

Is the enterprise contributing at least 25 per cent of the eligible costs from its own funds?
☐ yes ☐ no

7. Public-sector financial support

The **total financing** (section 6) of the project includes the following types of public-sector financing support that have either been applied for and approved, or are yet to be applied for:

							<i>Not to be filled in by the applicant</i>	
Source of financing ↓ <input type="checkbox"/>	please tick	Amount (€)	Loans					Subsidy in %
			(€)	Term (in years)	of which repayment-free	Interest rate (in %)	Actual interest rate paid (in %)	
Funds made available under the Joint Federal/Länder Task for the Improvement of Regional Economic Structures (GRW)	<input type="checkbox"/>							
<ul style="list-style-type: none"> Standard support Special programme⁶⁷ Name:	<input type="checkbox"/> <input type="checkbox"/>							
Financial support granted by the EU	<input type="checkbox"/>							
Name:								
Financial support granted from federal funds	<input type="checkbox"/>							
Name:								
Financial support granted from the funds of the Land	<input type="checkbox"/>							
Name:								
Support from the ERP Special Fund	<input type="checkbox"/>							
Name:								
Other public-sector financial support	<input type="checkbox"/>							
Name:								
			Loan amount (in €)	Period in years		Interest subsidy in %		
Interest subsidy	<input type="checkbox"/>							
			Loan amount (in €)			Guarantee in %		
Guarantee	<input type="checkbox"/>							
							Total	

⁶⁷ Abbreviation of the name of the special programme.

8. Declarations:

- 8.1 I/We hereby declare that I/we did not begin work on the investment project prior to filing the application (date of receipt of the application). The beginning of work on the investment project is defined as
- a) the time of the conclusion of a delivery or service agreement associated with project implementation; or
 - b) the beginning of construction work associated with the investment⁶⁸; or
 - c) the time of the placing of the first binding order for equipment; or
 - d) the time at which any other commitment is made that renders the investment irreversible.
- Work on the investment project is deemed to have started at the time at which the first of these actions is performed. Neither the purchase of land nor preparatory work such as the filing of requests for approval or the conducting of preliminary feasibility studies will be taken as the beginning of work on the investment project. Where the project involves construction work, neither planning nor ground surveys will be taken as the beginning of work. In cases where a permanent establishment is being taken over, the beginning of work on the investment project will be taken as the time of the acquisition of assets that are directly linked to the permanent establishment.
- 8.2 I/We hereby declare that my/our enterprise is not subject to a recovery order following a previous decision of the European Commission declaring an aid illegal and incompatible with the internal market, with which I/we have failed to fully comply.
- 8.3 I/We hereby declare that we have not undertaken any relocation⁶⁹ to the permanent establishment in which the initial investment for which the aid is to be applied is undertaken in the two years prior to applying for the aid. I/We commit to not doing this also in the two years following completion of the initial investment for which the aid is to be applied.
- 8.4 I/We hereby declare that any waste water and waste generated in connection with the investment described under section 4 will be properly managed/disposed of, and that any air pollution that may occur will be within the permissible limits.
- 8.5 I/We have been notified by the granting authority or an authority authorised by the granting authority that the following information to be provided as part of this application constitutes information within the meaning of Section 264 of the German Criminal Code (information relevant to the granting of subsidies), and that subsidy fraud constitutes an offence punishable under this provision:
- a) Applicant's details (section 1.2); any information provided in the user or leasing agreement (cf. explanatory notes for section 1.2);
 - b) Legal form and treatment under tax and corporate law (section 1.2);
 - c) Support for the permanent establishment or for the acquisition of used assets that has been granted prior to the application (section 1.4), information about any bail-out and restructuring aid received prior to the application (section 1.7);
 - d) Shareholding structure (section 1.5; section 8.10);
 - e) Information relating to the number of employees, annual turnover, and the annual balance sheet total (section 1.6);
 - f) Place of investment and other permanent establishments (section 2.1);
 - g) Information relating to the investment project, where this information concerns reliable facts that are known as of today (section 2.3);
 - h) Economic activity, manufacturing programme or type of commercial activity (section 2.4);
 - i) Number of permanent jobs at the time of application (section 3.1);
 - j) Information relating to investments involving relocation (section 3.3);
 - k) Write-offs earned over the past three financial years (section 3.4);
 - l) Book value of re-used assets; write-offs earned over the three financial years preceding the application (section 3.5);
 - m) Beginning of work on the investment project (section 4.2 and section 8.1);
 - n) Information provided on any other public-sector financing support requested/received (section 7);
 - o) Information related to the acquisition of public-sector land or public-sector buildings and the relevant purchasing price (section 2.2; section 4.1);

⁶⁸ The commissioning and conducting of planning services for construction work or ground surveys will not be taken as the beginning of work – unless these services are the sole purpose of the grant.

⁶⁹ Relocation is the transfer of the same or a similar activity or part of it from a permanent establishment located on the territory of a contracting party to the EEA Agreement (original permanent establishment) to a permanent establishment in which the assisted investment is to be undertaken located on the territory of another contracting party to the EEA Agreement (assisted permanent establishment). A transfer is deemed to have taken place if the product or service in the original and the assisted permanent establishment serves at least partly the same purposes and meets the demand or need of the same type of consumer and jobs in the field of the same or a similar activity are lost in one of the original permanent establishments of the beneficiary located in the EEA.

p) Declaration made under section 8.3.

Furthermore, I am/we are familiar with Section 4 of the Subsidies Act of 29 July 1976 (Federal Gazette 1, p. 2037), pursuant to which fictitious transactions and fictitious actions, in particular, will be considered to be immaterial as to whether a subsidy or an advantage associated with a subsidy is to be approved, granted, recovered, extended, or remain with the recipient. This means that the relevant decisions will be taken based on the actual intention.

- 8.6 I am/We are familiar with Section 3 of the Subsidies Act and the requirements regarding disclosure of information; most importantly, I/we will inform the authority that has issued the letter confirming the approval/the granting authority of any deviations from the information stated above, and will do so by contacting the application centre with which I/we have filed the application.
- 8.7 I /We consent to the data provided in this application being stored by the competent authority in the Federal Republic of Germany, and being transmitted to and processed by other Länder or federal authorities and institutions commissioned by them for statistical purposes and to monitor the success of the support schemes for business.

I am/We are aware that the Land or the Federal Government, following consultation with the Land, may decide to publish the following information in the interest of increasing transparency regarding business support measures, or must publish the information pursuant to Article 9(1)(c) GBER in the case of each individual grant exceeding €100,000 and pursuant to point 136 of the regional aid guidelines for individual aid of more than €100,000 that is subject to notification:

- Recipient's name
- Enterprise number of the beneficiary
- Type of enterprise (SME/large enterprise) at the time of grant
- Region in which the beneficiary's site is located, at NUTS 2 level⁷⁰
- Industry at NACE group level⁷¹
- Amount of support⁷²
- Support instrument (grant/interest subsidy, loan/repayable advance, guarantee, tax relief or tax exemption, risk financing, other)
- Date of grant
- Objective of the grant
- Number of permanent jobs
- Granting authority

- 8.8 I am/We are aware that the European Regional Development Fund (ERDF) may contribute to the support, in which case Regulation (EU) No 2021/1060 of the European Parliament and of the Council of 24 June 2021 (OJ L 231 of 30 June 2021, p. 159) applies in conjunction with Regulation (EU) No 2021/1058 of the European Parliament and of the Council of 24 June 2021 (OJ L 231 of 30 June 2021, p. 60).

In accordance with the EU provisions governing the EU Structural Funds, the managing authority, as part of the information and publicity measures it is charged with, maintains a register of beneficiaries, of projects for which support has been granted, and of the amount of public-sector funds allocated.

I/We agree to the information listed above being recorded in the register.

⁷⁰ NUTS classification of spatial units that is used for statistical purposes. In most cases, the region is to be indicated at NUTS 2 level.

⁷¹ Cf. Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393 of 30 December 2006, p.1).

⁷² Gross grant equivalent or, in the case of State aid being granted as part of a venture capital scheme ('risk finance aid'), the amount of the investment. In the case of operating aid, the applicant can state the annual amount of the aid per beneficiary. In the case of tax schemes or schemes that fall within the scope of Article 16 (regional urban development aid) or of Article 21 (risk finance aid) [Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty], it is sufficient for the beneficiary to state the aid amount by indicating the applicable 'range' pursuant to Article 9(2) GBER.

Officials or authorised representatives of the European Commission may, without prejudice to the right of Member States to carry out their own reviews, conduct in-situ examinations, including examinations of individual projects, so as to ascertain whether the management and control systems in operation are effective.

<u>Place/Date</u>	<u>Signature/stamp</u>

In cases where an enterprise has been split up, or where there is a partnership of corporate partners, or in the case of the enterprise being part of an integrated company, the application must also be signed by the other partner to make it legal and binding.

<u>Place/Date</u>	<u>Signature/stamp</u>

- 8.9 I have taken note of the privacy statement on the basis of Articles 13 and 14 of the General Data Protection Regulation (GDPR) and the information about my/our right to object pursuant to Article 21 GDPR which has been attached as an annex or provided online by the competent authority or other application centre (cf. section 1.1. of the explanatory notes).

<u>Place/Date</u>	<u>Signature/stamp</u>

8.10 Declaration on the shareholding structure of SMEs

I/We hereby declare that, in view of the shareholding structure and to the best of my/our knowledge, the permanent establishment is part of an enterprise of which 25 per cent or more of the capital share is not directly owned by another enterprise or a public-sector entity, and not owned jointly by two or more linked enterprises or public-sector entities. I am/We are aware that the assessment as to whether or not the enterprise is to be considered to be a small or medium-sized enterprise will be taken based on the situation at the time at which GRW funds are approved. In view of the fact that the information provided under section 1 refers to the situation as it stands of today, I/we hereby commit to immediately informing in writing the competent authority of any changes regarding the facts on which information is requested under sections 1.2, 1.3, 1.5, and 1.6, and to doing so by contacting the application centre with which the application has been filed.

<u>Place/Date</u>	<u>Signature/stamp</u>

Explanatory notes on the individual sections in the application form

1. A *single* application can be used by the applicant to request public-sector financing support for a *single* project to be implemented at a *single* permanent establishment. If an investment projects involves more than one permanent establishment, the applicant must file separate applications for each permanent establishment.

The applicant may arrange to be represented. However, pursuant to Section 14(5) of the Administrative Procedures Act in conjunction with the Legal Services Act, any authorised representative or legal counsel who, on a commercial basis, takes care of another party's legal matters without being duly authorised to do so, will not be accepted.

The application must be submitted prior to the beginning of work on the investment project. The date of registration at the application centre (stamp) will be taken as the date of application (cf. section 1.1).

The beginning of work on the investment project is defined as

- a) the time of the conclusion of a delivery or service agreement associated with project implementation; or
- b) the beginning of construction work associated with the investment; or
- c) the time of the placing of the first binding order for equipment; or
- d) the time at which any other commitment is made that renders the investment irreversible.

Work on the investment project is deemed to have started at the time at which the first of these actions is performed. Neither the purchase of land nor preparatory work such as the filing of requests for approval or the conducting of preliminary feasibility studies will be taken as the beginning of work on the investment project. Where the project involves construction work, neither planning nor ground surveys will be taken as the beginning of work. In cases where a permanent establishment is being taken over, the beginning of work on the investment project will be taken as the time of the acquisition of assets that are directly linked to the permanent establishment.

- 1.1 The application can only be filed with the authority responsible for processing applications for the respective site or with another application centre in the same *Land*.

Applications are to be submitted to the following authorities:

In Bavaria

Government of Lower Bavaria, Regierungsplatz 540, 84028 Landshut, Tel.: 0871/808-01, poststelle@reg-nb.bayern.de, www.regierung.niederbayern.de

Government of Upper Palatinate, Emmeramsplatz 8, 93047 Regensburg, Tel.: 0941/5680-0, poststelle@reg-opf.bayern.de, www.regierung.oberpfalz.bayern.de

Government of Upper Franconia, Ludwigstraße 20, 95444 Bayreuth, Tel.: 0921/604-0, poststelle@reg-ofr.regierung.de, www.regierung.oberfranken.bayern.de

In Berlin

Investitionsbank Berlin, Bundesallee 210, 10719 Berlin, Tel.: 030/2125-0, www.ibb.de

In Brandenburg

Investitionsbank des Landes Brandenburg, Babelsberger Straße 21, 14473 Potsdam, Tel.: 0331/660-0, www.ilb.de

In Bremen

BAB Bremer Aufbau-Bank GmbH, Domshof 14/15, 28195 Bremen, Tel.: 0421/9600-40, mail@bab-bremen.de, www.bab-bremen.de

BIS Bremerhavener Gesellschaft für Investitionsförderung und Stadtentwicklung mbH, Am Alten Hafen 118, 27568 Bremerhaven, Tel.: 0471/946-466-10, mail@bis-bremerhaven.de, www.bis-bremerhaven.de

In Hesse

Wirtschafts- und Infrastrukturbank Hessen (WIBank), public agency, Kassel site: Ständeplatz 17, 34117 Kassel, Tel.: 0561/706-7711, info@wibank.de, www.wibank.de

In Mecklenburg-Western Pomerania

Landesförderinstitut Mecklenburg-Vorpommern, Hauptsitz Schwerin, Werkstraße 213, 19061 Schwerin, Tel.: 0385/6363-0, info@lfi-mv.de, www.lfi-mv.de

In Lower Saxony

Investitions- und Förderbank Niedersachsen - NBank, Günther-Wagner-Allee 12 - 16, 30177 Hannover, Tel.: 0511/30031-0, info@nbank.de, www.nbank.de

In North Rhine-Westphalia

NRW.Bank, Friedrichstraße 1, 48145 Münster, Tel.: 0251/91741-0, info@nrwbank.de, www.nrwbank.de

In Rhineland-Palatinate

Investitions- und Strukturbank Rheinland-Pfalz (ISB), Holzhofstraße 4, 55116 Mainz, Tel.: 06131/6172-0, isb@isb.rlp.de, www.isb.rlp.de

In the Saarland

Ministerium für Wirtschaft, Innovation, Digitales und Energie, Franz-Josef-Röder-Straße 17, 66119 Saarbrücken, Tel.: 0681/501-00, www.saarland.de/mwide/DE/home/home_node.html

In Saxony

Sächsische Aufbaubank – Förderbank, Gerberstraße 5, 04105 Leipzig, Tel.: 0351/4910-0, servicecenter@sab.sachsen.de, www.sab.sachsen.de

In Saxony-Anhalt

Investitionsbank Sachsen-Anhalt, Domplatz 12, 39104 Magdeburg, Tel.: 0800/5600757, www.ib-sachsen-anhalt.de

In Schleswig-Holstein

Investitionsbank Schleswig-Holstein (IB.SH), Zur Helling 5 - 6, 24143 Kiel, Tel.: 0431/9905-0, info@ib-sh.de, www.ib-sh.de

In Thuringia

Thüringer Aufbaubank (TAB), Gorkistraße 9, 99084 Erfurt, Tel.: 0361/7447-0, info@aufbaubank.de, www.aufbaubank.de

- 1.2 In cases where an enterprise has been split up, or where there is a partnership of corporate partners, or in the case of the enterprise being part of an integrated company, the application must be signed by all the parties involved.

In cases where an enterprise has been split up, or where there is a partnership of corporate partners, a letter of confirmation issued by the competent tax office must be supplied as supporting evidence.

In the case of leasing or hire-purchase agreements, the application from the user (lessee, hire-purchaser) is based on a binding offer by the investor to conclude a leasing / hire-purchase agreement. This agreement must cite the costs of purchasing and manufacturing the object, the period of use, the fee for the use and any agreements on options to extend the agreement.

The leasing or hire-purchase agreement must meet the following requirements:

- It is mandatory for hire-purchase or leasing agreements for assets other than land or buildings to take the form of a financing lease that results in ownership of the assets for which support is granted being transferred to the investor at the end of the term. The risk associated with maintenance of the assets for which support is received must lie with the hire-purchaser or lessee.
- The minimum term for hire-purchase or leasing agreements for land or real estate is five years; in the case of SMEs, the minimum term must expire no earlier than three years after the estimated date of completion of the investment project. Furthermore, variation clauses regarding the leasing rates due to changes in interest rates and/or administrative costs must be indicated. The risk associated with maintenance of the assets for which support is received must lie with the hire-purchaser or lessee.

- 1.2 A more detailed description of the legal structure is particularly necessary if this is not obvious from the company (e.g. as an unincorporated firm the legal structures of Gesellschaft bürgerlichen Rechts - GbR -, OHG, KG, GmbH & Co. KG, as an incorporated firm the legal structures of GmbH, AG, KGaA or as a cooperative, association or sole proprietorship).

With regard to the situation in terms of tax legislation and corporate law, in the case that an enterprise has been split up, or where there is a partnership of corporate partners, or in the case of the enterprise being part of an integrated company, greater details must be provided of the relationship between the holding company and the operating company, the corporate partner and the unincorporated firm, or of the dominant enterprise and the dependent enterprise. A corresponding confirmation from the tax office must be presented.

- 1.5 The decision on granting GRW support is taken on the basis of the facts at the time when the support is granted.

This means that the competent authority must be informed of changes (cf. section 8.10).

Where 25 per cent or more of the capital or the voting rights of the enterprise are held by another or several companies or entrepreneurs, the applicant must state whether the participating companies or entrepreneurs are public holding companies, venture capital companies or institutional investors. If the enterprises or entrepreneurs are public holding companies, venture capital companies or institutional investors, it must also be stated whether the participating companies or entrepreneurs exercise control over the company jointly or severally.

If it is not possible to ascertain who holds the shares in view of the shareholding structure, the applicant must make the declaration mentioned under section 8.10.

- 2.1 Assistance can only be provided within the assisted areas. These consist of the areas stipulated in the relevant Coordination Framework pursuant to the Act on the GRW. Where necessary, the precise present and previous description of the place of investment should be given (e.g. where names have changed due to territorial reforms).
- 2.2 A more detailed description and justification of the investment project is required in order to enable wherever possible an assessment of the facts without time-consuming follow-up questions.

If used assets are mentioned in the separate document regarding the envisaged investment, it must be stated whether the investment takes place in the context of the acquisition of the assets of a company site that has been closed down or would have been closed down without this acquisition, or whether the enterprise to be acquired is an enterprise in the startup phase. The startup phase of an enterprise is defined as the period of 60 months following the investment to found the enterprise. An enterprise is regarded as a startup if it has registered commercial operations for the first time and unless it is under majority ownership of one or several independent entrepreneurs or enterprises. Furthermore, it must be stated whether the used assets are to be purchased at market conditions from linked enterprises or enterprises that are affiliated with the investor in economic or legal terms, or at the level of the individuals involved, and whether public-sector funds have been made available for these assets at any earlier time.

If land is acquired or included in the project, it must be stated whether this plot of land is necessary for the investment project for which the application is being made. Evidence must be provided of the market value of the land.

- 3.1 The number of permanent jobs must be indicated separately from the number of employees.
- 3.2 'Permanent jobs' must not only be created physically, but also be filled or advertised on the job market.
- 3.3 Permanent jobs are defined as jobs which, from the outset, are created for the long term, at least for the minimum duration of five years after completion of the investment.

Here, it is necessary to state:

- In every case the existing non-vacant permanent jobs, if appropriate in the fractions of their regular take-up compared with a full-time job, in the permanent establishment(s) in which the investment project to be assisted is carried out, including
 - permanent jobs for full-time employees and students at vocational academies as well as training places in full;
 - permanent jobs for part-time and seasonal workers as a fraction of their time in terms of the annual hours worked compared with the annual working hours of a full-time job;
 - permanent jobs for workers on reduced old age part-time work as a fraction of the time of their take-up during the phase in which they work;
 - Permanent jobs for agency workers as a fraction of their average take-up in the last 12 months prior to submission of the application as long as the worker is deployed in the applicant enterprise and the agency workers are employed in a position subject to social security contributions by the agency providing the workers.
- If the applicant has several permanent establishments of the same commercial enterprise in the same municipality, the number of existing and non-vacant permanent jobs must be indicated for all of these

permanent establishments and then contrasted with the number of existing and permanent jobs which have been or are to be filled following the conclusion of the assisted investment project.

- Where more than one shift is operated, the number of permanent jobs is, as a general rule, considered to be equivalent to the corresponding number of employees.

In the case of wage grants, it is also necessary to cite the number of employees in the relevant permanent establishment as an average for the last 12 months prior to the application and following completion of the project. When the net rise in the number of employees is calculated, jobs which have been cut in this period must be deducted and the full-time, part-time and seasonal employees must be taken into consideration using the fractions of their annual work units.

- 3.3 Investments that are made at or at around the time when a significant reduction of jobs occurs at another permanent establishment linked to the enterprise and situated in an assisted area receiving a lower level of GRW support, and that are linked in nature/substance to this reduction of jobs, are eligible to be considered for support only if consensus is reached about this with the Land/Länder affected by the reduction in jobs. A significant reduction of jobs is deemed to occur whenever the number of jobs lost at the other permanent establishment is equivalent to half or more of the number of newly created jobs. Where it proves impossible to reach consensus on granting support for the investment in the target area, the maximum rate of support for which the project is eligible to be considered is equivalent to the rate of support that applies pursuant to number 2.5.1(1) in the assisted area in which the other permanent establishment is situated.

Any (potential) proceeds from the sale of the former permanent establishment and any amount received in compensation payments must be deducted from the amount of investment costs that are eligible for support.

- 3.5 In the context of an initial investment, ‘assets’ means both tangible and intangible assets (cf. Article 2 number 49 (a) GBER). Tangible assets include land, buildings and facilities, machinery and equipment (cf. Article 2 number 29 GBER).

A ‘project to diversify’ is a project which involves the repurposing of assets that have previously been used to produce a certain type of goods to now produce⁷³ a new product. Example: land and buildings previously used to manufacture product A are now being entirely or partly used to manufacture product B. Such assets are referred to as ‘re-used assets’.

In the case of an investment to fundamentally change the entire production process, the assets related to the activity to be modernised (e.g. land and buildings for the manufacture or storage of products) must be included. “Activity to be modernised” is the activity in the permanent establishment which is redesigned as a result of the fundamental change of the production process, i.e. modernised and thus improved.

- 4.1 The figures regarding the volume of investment are required in order to describe the investment project in greater detail and thus supplement section 2 (Description of the investment project). The amounts must be given in euros. Unexpected increases in investment costs can under certain preconditions be made part of the application up to the time the GRW support is granted; in every case, they must be made known to the application centre as soon as they become known. Where necessary, the amounts for all individual items must be indicated so that the eligible costs of the investment project can be ascertained.

- Intangible assets mean: patents, operating licences or patent-protected technical expertise or technical expertise that is not patent-protected.
- The citing of the procurement/manufacturing costs of the physical fixed assets ascribed to the investment project is undertaken at this point without the inclusion of the procurement/manufacturing costs of any intangible assets to be leased.
- At this point, it may be necessary to cite the costs of purchase of land factored in by the applicant.
- Investments made to replace existing assets are not eligible costs.
- The eligible costs do not include vehicles which are licensed for road traffic and primarily serve transportation purposes (e.g. passenger cars, vans, trucks, buses, but also rolling stock). Manned aircraft and watercraft and unmanned aircraft and watercraft that primarily serve the purpose of transportation also do not count as eligible.
- Not only the actual revenues from the sale must be indicated, but also those revenues from the sale which would have been attainable (cf. section 3.3).
- Compensation amounts can arise for example pursuant to the Federal Building Code or restitution law. In the listing, all of the compensation amounts relating to the relocation of the permanent establishment must be indicated. If the investor has yet to receive any compensation at the time of application, he must list the

⁷³ Cf. footnote 56 referring to section 2.2.

anticipated claims to compensation relating to the relocation of the permanent establishment (cf. section 3.3).

- 4.2 As a matter of principle, investment projects are only eligible to be considered for support if they are implemented within a period of 36 months.
7. Here, all public financial assistance for the investment project must be indicated in every case. Where the public financial assistance has yet to be applied for or is not yet known or the subsidy value has not yet been decided, the corresponding changes must be subsequently reported.

Annex 4 Positive list and conditional positive list

Annex 4.1 Positive list

No.	WZ 2008¹ Code	WZ 2008 designation
1	10	Manufacture of food products (except 10.1 and 10.71)
2	11	Manufacture of beverages
3	13	Manufacture of textiles
4	14	Manufacture of wearing apparel
5	15	Manufacture of leather and related products
6	16	Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials
7	17	Manufacture of paper and paper products
8	20	Manufacture of chemicals and chemical products
9	21	Manufacture of pharmaceutical products
10	22	Manufacture of rubber and plastic products
11	23	Glass-making, ceramics, processing of stones and earths
12	24	Metal production and processing where not excluded under Article 13 letter a in conjunction with Article 2 number 43 GBER
13	25	Manufacture of fabricated metal products, except machinery and equipment (except 25.4)
14	26	Manufacture of computer, electronic and optical products
15	27	Manufacture of electrical equipment
16	28	Manufacture of machinery and equipment
17	29	Manufacture of motor vehicles, trailers and semi-trailers
18	30	Manufacture of other transport equipment (except 30.4)
19	31	Manufacture of furniture
20	32	Manufacture of other goods
21	38.3	Materials recovery
22	39	Remediation activities and other waste management services
23	55	Accommodation
24	58.2	Publishing of software
25	62	Computer programming, consultancy and related activities
26	63	Information service activities
27	72	Scientific research and development, if primarily providing R&D services for commerce
28	93.2	Other entertainment and leisure service activities which primarily benefit tourism

¹ Classification of Economic Activities (WZ), 2008 edition.

Annex 4.2 Conditional positive list

No.	WZ 2008 Code	WZ 2008 designation
1	18	Printing and service activities related to printing
2	33	Repair and installation of machinery and equipment
3	46	Wholesale trade (except motor vehicles and motorcycles) (except 46.1)
4	52.29.9	Provision of transport services not mentioned elsewhere
5	59	Production, distribution and sale of films and television programmes; cinemas; recording studios and music publishing (except 59.14)
6	70.1	Activities of head offices
7	71	Architectural and engineering firms; technical, physical and chemical analysis (except 71.11)
8	73	Advertising and market research