# Annex: Declaration for GBER applicants

Declaration that an Undertaking is NOT an ‘Undertaking in Difficulty’

In line with Article 1(4)(c) GBER, aid under Regulation B of the National Rules for Participation – State Aid, may not be granted to undertakings in difficulty, unless the undertaking was not in difficulty on 31 December 2019 but became an undertaking in difficulty in the period from 1 January 2020 to 31 December 2021.

The definition of “undertaking in difficulty” (Article 2(18)) is as follows:

(a) In the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, ‘limited liability company’ refers in particular to the types of company mentioned in [Annex I of Directive 2013/34/EU](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014R0651-20170710#E0004) and ‘share capital’ includes, where relevant, any share premium.

(b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, ‘a company where at least some members have unlimited liability for the debt of the company’ refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.

(c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.

(d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.

(e) In the case of an undertaking that is not an SME, where, for the past two years:

(1) the undertaking's book debt to equity ratio has been greater than 7,5 and

(2) the undertaking's EBITDA interest coverage ratio has been below 1,0.

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| **I confirm that**:The Undertaking being represented in this application for aid does not fulfil the definition of an “undertaking in difficulty” set out in Article 2(18) of the General Block Exemption Regulation. Applicants must be aware that large undertakings must also abide to point (e) which is not applicable to SMEs. Furthermore, the applicant agrees to provide the required financial forms and documents as requested by the Council, in support of this Declaration, by the Stage 2 deadline.  | I agree [ ]  |

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Name and Surname of Legal Representative

Date Click here to enter a date.