

EU measures for small and medium-sized enterprises (SMEs)

The EU is pursuing a number of initiatives to encourage entrepreneurship and to enact SME-friendly legislation. With SMEs recognised as substantial contributors to the growth and prosperity of the EU, these measures are seen as a key part of the EU's strategy for economic recovery.

This briefing provides an overview of some of the initiatives currently being pursued by the EU which impact on SMEs, before identifying some specific measures which may assist with the growth and internationalisation of SMEs, and which are relevant for SMEs in the UK.

The Small Business Act (SBA)

On 25 June 2008 the Commission published the SBA. Although described as an “act”, the SBA is an initiative designed to further strengthen SMEs’ sustainable growth and competitiveness. The SBA sought to tackle the obstacles hampering the ability of SMEs to grow and create jobs. The SBA introduced 10 principles, the main focus of which were to ensure that SMEs were subject to smart regulation, had access to finance and were able to take full advantage of the Single Market.

The core principle of the SBA was “Think Small First”. SMEs are seen as bearing a disproportionate administrative burden in comparison with larger businesses. The aim of the SBA was to ensure that the characteristics of SMEs were taken into account when legislation was designed and to simplify the existing regulatory environment for SMEs.

Part 1: Overview of SME initiatives

Europe 2020

In response to the global financial crisis, on 3 March 2010 the European Commission published its new economic strategy “Europe 2020”. This was formally adopted by the European Council on 17 June 2010. Europe 2020 has three key objectives:

- **smart growth:** fostering knowledge, innovation, education and digital society and developing an economy based on knowledge and innovation;
- **sustainable growth:** making production more resource efficient while boosting competitiveness and promoting a low-carbon, resource-efficient and competitive economy; and
- **inclusive growth:** raising participation in the labour market, the acquisition of skills and the fight against poverty and fostering a high-employment economy delivering social and territorial cohesion.

The progress towards these objectives is to be measured through five “headline targets” that have been set as starting points for Member States. These headline targets include raising the employment rate to 75% for men and women aged 20-64 and raising combined public and private investment levels in research and development to 3% of GDP.

The Commission is tasked with developing EU level action and each Member State is to submit a National Reform Programme (“NRP”) showing how they will ensure that the Europe 2020 targets are met.

The initiatives

The Commission is pursuing seven flagship initiatives as part of Europe 2020. Those likely to have the most significant impact on SMEs are:

- **Innovation Union;** this seeks to ensure that innovative ideas can be turned into products and services that create growth and jobs;
- **a digital agenda for Europe;** this seeks to speed up the roll-out of high-speed internet, reap the benefits of a digital single market and to simplify copyright clearance, management and cross-border licensing;
- **resource efficient Europe;** to help decouple economic growth from the use of resources; and
- **an industrial policy for the globalisation era;** to improve the business environment, particularly for SMEs, and to support the development of a strong and sustainable industrial base able to compete globally.

In addition to the flagship initiatives, the Commission is using a number of existing policies and tools to work towards the Europe 2020 headline targets. On 23 February 2011, the Commission published a review of the SBA, which identified the following areas as requiring further action:

- **making smart regulation a reality for European SMEs;** this requires further application of the Think Small First principle to allow SMEs to spend less time on administrative procedures. One example is the “only once” principle, under which public authorities and administrative bodies refrain from repeatedly requesting information and documents;
- **paying specific attention to SMEs’ financing needs;** this requires giving support to timely payments in commercial transactions, improving SMEs’ access to finance and establishing improved and more efficient loan guarantee schemes and an efficient single European market for venture capital funds;
- **taking a broad-based approach to enhancing market access for SMEs;** this requires facilitating cross-border debt recovery, proposing a single set of rules for computing the corporate tax base across the EU, analysing unfair commercial practices and contractual clauses in business to business transactions;
- **helping SMEs contribute to a resource-economy;** this requires raising SMEs’ awareness of environmental and energy-related issues; and
- **promoting entrepreneurship, job creation and inclusive growth;** this requires simplifying the administrative requirements and procedures to wind up failing businesses and remove the barriers for entrepreneurs to “bring ideas to market”.

Part 2: Specific measures

Although the initiatives pursued so far rely on conceptual guiding principles, they have given rise to some concrete legislative proposals which are currently being pursued at EU level. These include specific measures to deal with:

- **late payments:** the European Commission adopted the Late Payments Directive on 16 February 2011. This was published on 23 February 2011. By 16 March 2013, Member States will need to have adapted their national laws relating to late payments in commercial transactions. It will be a requirement for public authorities to pay for goods and services within 30 days (or 60 days in very exceptional circumstances) and for businesses to pay invoices within 60 days (unless the parties expressly agree otherwise and this agreement is not grossly unfair). There will also be an automatic entitlement to a minimum fixed amount of €40 as compensation for recovery costs;
- **European contract law:** the Commission is pursuing measures to tackle the bottleneck in the Single Market of having different contract laws for each of the EU's 27 Member States. The Commission's preferred approach is to establish a "28th regime", or optional European contract law that parties to a transaction could choose instead of that of any Member State. The Commission is currently considering the results of a consultation on this issue and is expected to make further announcements later this year. A separate Russell-Cooke briefing note dealing specifically with the European contract law proposal is available [here](#);
- **European Private Company:** as part of its work on the SBA, the Commission published a proposal for a new European Private Company (or Societas Privata Europaea (SPE)) which could operate across Europe without having to set up subsidiaries in different company forms in each Member State it seeks to do business. On 12 May 2011, as part of the review of the SBA, the European Parliament urged Member States to adopt the draft SPE Regulation;
- **intellectual property rights:** a number of policies are being pursued to make the market for trading IPRs less opaque and fragmented. As part of its flagship "Innovation Union" policy, the Commission is seeking to address the cost and complexity of patenting, which at present must be obtained for all 27 EU Member States. In April 2011, the Commission proposed two draft Regulations setting out the terms and conditions for obtaining unitary patent protection;
- **venture capital passports:** the Commission intends to introduce legislation to allow venture capital funds established in one Member State to operate freely anywhere in the EU and to eliminate remaining tax obstacles to cross-border activities.

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