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 [Art. 38\(3\)\(a-d\) - Eligible cost](#)



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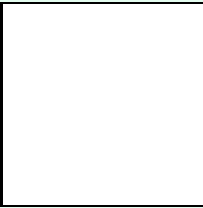
title	MS instructions for sending a NEW QUESTION to the European Commission:
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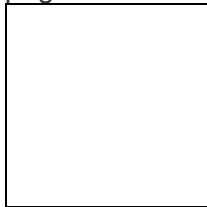
Page properties

	Art. 38(3)(a-d)
Key words	<i>eligible costs</i>
Member State	<i>LT</i>

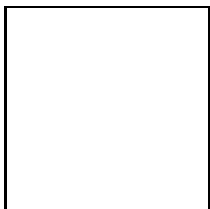
1. **Page title:** Please insert the full Article reference (e.g. "Art. 1(4) a)") and a short title (e.g. "Deggendorf principle")
2. **Table:** Fill in **only the green** fields. Please respect the instructions (they are essential to optimize search).
3. **Questions:** Please create 1 question page per question
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Question	<div data-bbox="1115 368 1832 608">  Expand </div> <div data-bbox="1115 643 1832 751"> <p>title Question</p> </div> <div data-bbox="1115 751 1832 997"> <p>Can you provide more detailed explanation regarding Regulation (EU) No. 651/2014 eligible costs specified in Article 38 (3) and their calculation methods specified in 38 (3) (a-d)?</p> <p>It isn't clear how it should be calculated. Can you give some specific examples?</p> </div>
Creation Date	2023.10.06
COMP Reply	<p>According to Article 38(3) GBER, the eligible costs for energy efficiency investment aid are the extra investment costs necessary to achieve the higher level of energy efficiency compared to the situation without the aid. Article 38(3) GBER does not include operating costs. Therefore, only investment</p>

page:



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stateaid-
administrators

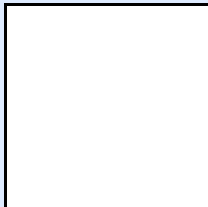
costs that are directly linked to the energy efficiency investment could be part of the eligible costs.

The eligible costs are determined by comparing the costs of the investment (i.e. factual scenario) to the investment costs of the counterfactual scenario that would occur in the absence of the aid. Article 38(3) describes four types of counterfactuals that can be used. In all cases the counterfactual scenario should be a plausible scenario in the absence of aid which should also allow the beneficiary to comply with Union standards and with EU legislation. As the counterfactual scenario depends on the legal requirements, market conditions and incentives generated by the EU ETS system, it is for the Member State to examine what the most likely counterfactual would be (among the four counterfactual) per type of investment (for schemes) or for the concrete individual project at hand (for ad hoc aid). However, Member States must maintain detailed records with the information and supporting documentation necessary to establish that all relevant GBER conditions are fulfilled, e.g. in case of monitoring by the Commission, audit or in case of a complaint.

The below example could illustrate the types of the counterfactual scenarios and the calculation of the eligible costs.

Example: The beneficiary has a coal-fired boiler that reached its end of life and must be replaced.

Under Article 38(3)(a) the factual scenario (a) could consist in the investment in a heat pump and the counterfactual scenario (b) could consist in the investment in a new conventional boiler that would be less energy efficient than the heat pump with capacity and lifetime comparable with the investment under (a). Eligible cost are (a)-(b).



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questions

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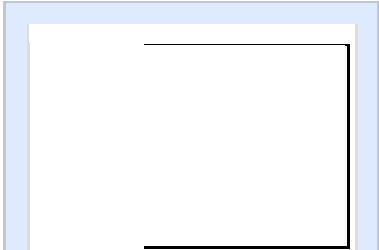
Under Article 38(3)(b) the factual scenario (a) could consist in the investment in a heat pump in 2024 and the counterfactual scenario could consist in the investment in the same heat pump in 2027. Eligible costs are NPV of (a) - NPV of (b).

Under Article 38(3)(c) the factual scenario (a) could consist in the investment in the heat pump and the counterfactual scenario (b) could consist in the modernisation of the existing coal-fired boiler of capacity comparable to investment under (a) to prolong its useful life for a period corresponding to the lifetime of the investment that would take place in the factual scenario. Eligible costs are NPV of (a) - NPV of (b)

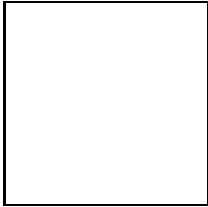
Under Article 38(3)(d) the factual scenario (a) could consist in the leasing of the heat pump (with exclusion of all operating costs) and leasing of less the energy efficient conventional boiler with capacity and lifetime comparable with the investment under (a) (with exclusion of all operating costs). Eligible costs are NPV of leasing (a) - NPV of leasing (b).

As discounting rate, for schemes Member States may prescribe what discount rate is to be applied for establishing the NPV, provided that it is well justified and that the same principles for determining the discount rate is applied consistently to all applicants within the GBER scheme concerned. For ad hoc aid, we would assume that Member States will use the company WACC as the discount rate.

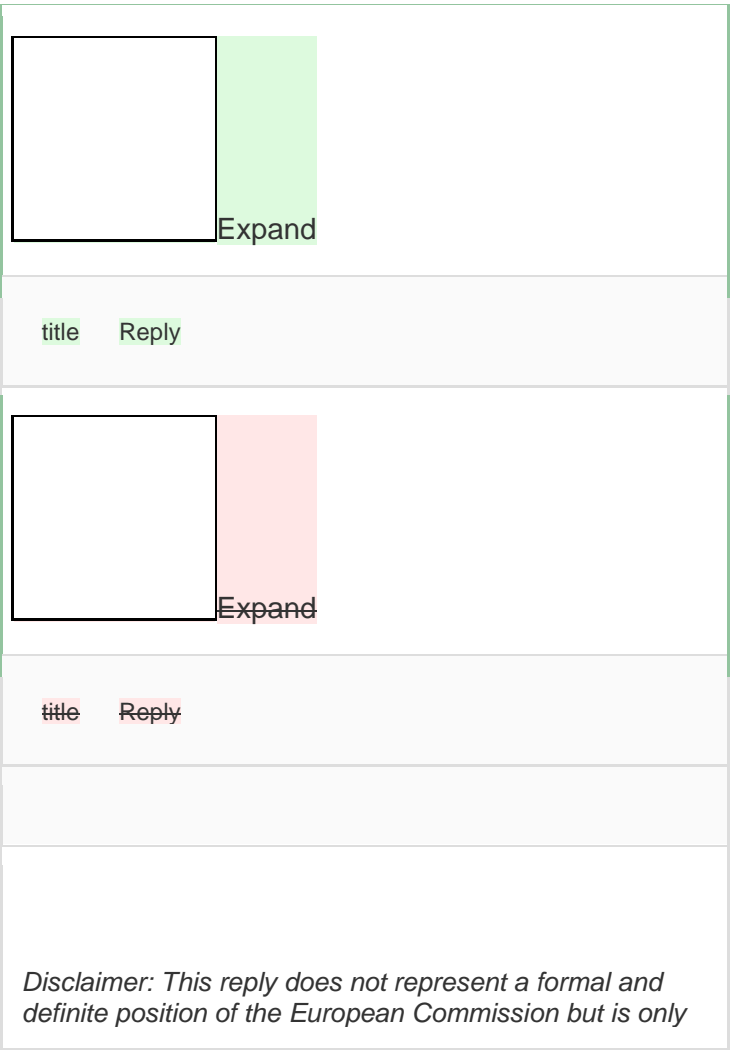
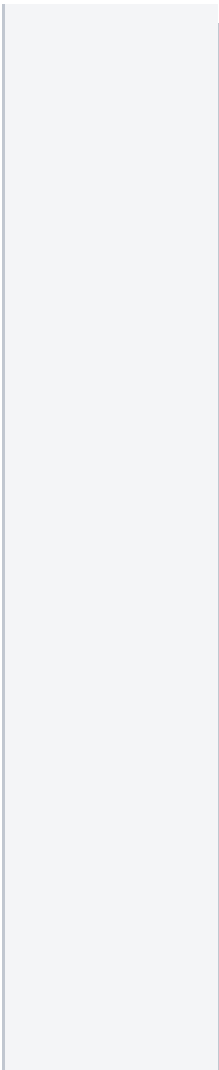
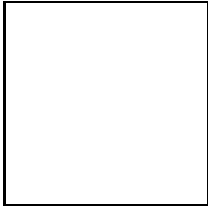
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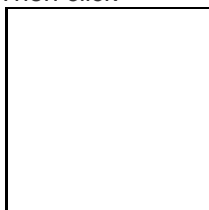
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an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.

**COMP
Reply date**

2023.11.12.1301

**COMP
Responsible**



[@HII ESTATE-AID-WIKI](#)

¹ Article numbers & names

- Article 36 - Investment aid enabling undertakings to go beyond Union standards for environmental protection
- Article 37 - Investment aid for early adaptation to future Union standards
- Article 38 - Investment aid for energy efficiency measures
- Article 39 - Investment aid for energy efficiency projects in buildings
- Article 40 - Investment aid for high-efficiency cogeneration
- Article 41 - Investment aid for the promotion of energy from renewable sources
- Article 42 - Operating aid for the promotion of electricity from renewable sources
- Article 43 - Operating aid for the promotion of energy from renewable sources in small scale installations
- Article 44 - Aid in the form of reductions in environmental taxes under Directive 2003/96/EC
- Article 45 - Investment aid for remediation of contaminated sites

- Article 46 - Investment aid for energy efficient district heating and cooling
- Article 47 - Investment aid for waste recycling and re-utilisation
- Article 48 - Investment aid for energy infrastructure
- Article 49 - Aid for environmental studies

² AT, BE, BG, HR, CY, CZ, DE, DK, EE, EFTA, EL, ES, FI, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SE, SI, UK.

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