

Athens, 14 February 2020

Responses to clarification requests submitted by Interested Parties in connection with the Invitation to submit an Expression of Interest for the acquisition of a majority shareholding in DEPA Commercial (the “Invitation”). Unless otherwise specified herein, capitalized terms used in the present shall bear the same meaning as in the Invitation.

	Reference in Invitation sections	Question	Answer
1.	4.3.1	<p>In the article 4.3.1 of the invitation to submit an expression of interest for DEPA Commercial, prerequisite is that “shareholders’ equity” of the Interested Party if it is a legal entity, must be equal or higher than 200M€. In economic literature the term is found as “shareholder equity” (singular and without an apostrophe).</p> <p>The words “shareholder”, “shareholder’s”, “shareholders” and “shareholders’” each have a different meaning.</p> <p>i) In this context are we correct to assume that “shareholders equity” refers to the Interested Party’s “shareholder equity”, i.e. the Interested Party’s “shareholder equity” and not to the “equity” of its</p>	<p>(i), (ii) As regards the financial requirements in case the Interested Party is a legal entity, it is clarified that the “<i>shareholders’ equity</i>” referred to under clause 4.3.1 of the Invitation, refers to the Interested Party’s shareholders’</p>

	<p>individual “shareholders”? -</p> <p>ii) If the case is that the term equity refers to each individual shareholder of an interested party, please clarify whether also Interested Party’s equity must meet the same requirement/prerequisite, i.e. independent/irrespective of whether this prerequisite is met by shareholders thereof?</p> <p>iii) If “shareholder equity” refers to the Interested Party solely and not to its shareholders and the Interested Party does not meet the € 200 million shareholder equity threshold, does the Financial Affiliate Supporter have to meet this threshold by itself on a stand-alone basis, or is it satisfactory that the Interested Party and the Financial Affiliate Supporter, in combination, meet the threshold requirement.</p> <p>iv) May an Interested Party rely on more than one Financial Supporter and on their combined meeting the threshold?</p> <p>v) Finally and most importantly, given that financial terms are not always interpreted in the same manner in different jurisdictions it would be of great assistance to have the clear specific definition/formula on what should be defined as “shareholders’ equity” given that there are various available definitions. How “shareholders equity” is specifically defined? What formula is applicable?</p>	<p>equity, i.e. the equity of the legal entity, and not of the individual shareholders of such entity.</p> <p>(iii) In case the Interested Party relies on the financial capacity of a Financial Affiliate Supporter in order to meet the Financial Requirements of clause 4.3 of the Invitation, then the threshold requirements referred to thereunder must be met by such Affiliate Supporter alone, and not in combination with the Interested Party.</p> <p>(iv) Yes, this is possible.</p> <p>(v) <i>Shareholders’ equity</i> (referred to under clause 4.3.1 of the Invitation) shall be construed in accordance with the Interested Party’s applicable accounting standards, as per its jurisdiction and any other potentially applicable additional legal requirements.</p>
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2.	Annex I	<p>Regarding ANNEX I, footnote 2 states “...shall <u>relate</u> to all the members of the board of directors and any other person having the power to represent the company (if applicable) <u>based</u> on the articles of association or equivalent documentation. ...”. Having in mind that the words “relate” and “based on” are semantically rather loose they may imply a number of things. Additionally individual Board Members are not de jure legal representatives.</p> <p>i) Should the Solemn Declaration be submitted only once, signed by one person who is a Board Member and/ or third person either of whom are a legal representative, whose authority is explicit by virtue of his/her office in the articles of association, or should it be submitted individually by all the Board members and legal representatives named in the articles of association (possibly leading to dozens of Solemn Declarations)?</p> <p>ii) Where the articles of association allow the Board to delegate its collective representative authority to third parties may the Solemn Declaration be signed by a person, who is not a Board member, who is named though as legal representative by a Board Resolution?</p> <p>iii) Where the articles of association allow the Board to delegate its collective representative authority to its members and /or third parties, may the Solemn Declaration be signed by a person whose representative authority is general in nature (a person authorized to represent the company in public tenders) or does the resolution have to be specific “fit for purpose” naming the specific Invitation</p>	<p>(i), (ii) According to the Invitation, as amended and uploaded to the Fund’s website on 13.02.2020, in case the Interested Party is a legal entity, then the Solemn Declaration of Annex I should be signed:</p> <p>(1) either by all the members of the board of directors as well as any other person having the power to represent the company;</p> <p>(2) or solely by the legal representative of the company (whether its authority arises from the Articles of Association or corporate resolutions of the legal entity).</p> <p>(iii) The signatory will need to draw its authority from a specific authorization granted in view of the Invitation and the Tender Process. An authorisation for signing any documentation related to the Tender Process in general would suffice, even if a specific reference to the particular Solemn Declaration of Annex I is not included. In any case, the Interested Party is not required to submit such documentation on authorization at this stage - the Fund</p>
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		<p>and authorizing that person to submit that specific Solemn Declaration (Annex I).</p> <p>iv) Does the Interested Party have to adduce evidence of the line of authority including but not limited its Articles of Association, General Meeting Resolution on the election of Board Members, Board Resolution on the constitution “in corpus” of the Board, Board Resolutions granting general or specific representation authorities, Company Register (GEMI) records where such are required by Law?</p>	<p>may request it though at any time at its discretion.</p> <p>iv) Interested Parties are not required at this stage to provide such documentation along with the submission of the Expression of Interest. However, this documentation may be requested at any time by the Fund at its discretion according to clause 10.3 of the Invitation.</p>
3.	4.5.1	<p>In article 4.5.1, “Affiliate” means “<i>in relation to an Interested Party or a consortium member, any person which, directly or indirectly, controls, or is controlled by, or is under common control with, the Interested Party or the consortium member</i>”.</p> <p>Please clarify whether “person” means “legal entity” and/or “natural person” and whether “indirectly” implies “Ultimate Beneficial Owner”.</p>	<p>The term “person” covers both legal entities and natural persons.</p> <p>As mentioned under clause 4.5.1 of the Invitation, for the meaning of “control”, please refer to the meaning ascribed to such term under the EU Regulation 139/2004. To the extent that the “Ultimate Beneficial Owner” <i>controls</i> the Interested Party, under the meaning of the above Regulation, such finding, among others, would be caught by the definition of the Affiliate.</p>
4.	Annex I	<p>The signature on the Solemn Declaration of the Annex I has to be certified by any authority whatsoever, i.e. Police, KEP etc.?</p>	<p>No, the solemn declarations of Annex I and Annex II do not require such authentication.</p> <p>For more information on the issue of authentications/certifications of documents, please refer to the response of Q2 included in the first set of clarifications uploaded to the Fund’s website on 11.02.2020.</p>

	6.1.4,	Company X has two shareholders: Company Y and Company Z. Each shareholder participates in Company X with a 50% participation. Can Company Y and Company Z participate separately, with separate Letters of Expression of Interest in Phase 1 of the Invitation and subsequently, if shortlisted, in Phase 2 form a consortium	According to clause 6.1.4 of the Invitation, it falls within the absolute discretion of the Fund to evaluate such requests during the Binding Offers Phase and determine whether to permit Shortlisted Parties to form a consortium with another Shortlisted Party. As clearly stated in the aforementioned clause of the Invitation, the Request for Proposal shall set forth the process for the evaluation of said requests submitted by the Shortlisted Parties in respect of the contemplated actions.
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