

## 28th Regime Initiative

### European DIGITAL SME Alliance – Call for Evidence Response

The [European DIGITAL SME Alliance](#) is the largest network of ICT small and medium-sized enterprises (SMEs) in Europe representing over 45,000 businesses across the continent.

While the EU creates more new firms than the US, it struggles to scale them into global leaders<sup>1</sup>. Start-up survival rates remain low, and scale-up performance is weak. Growth is hindered by burdensome and fragmented regulatory frameworks, legal uncertainty, limited access to risk capital, and a shortage of skilled labour.

DIGITAL SME **supports the 28<sup>th</sup> regime** initiative for two key reasons:

- i. it offers a concrete opportunity to address long-standing shortcomings in the EU's ability to scale up innovative companies – as underlined in European Commission's [EU Startup and Scaleup Strategy](#), and
- ii. it can become a strategic tool to enhance the global competitiveness of EU-based companies and advance the EU's technological sovereignty.

These goals are aligned with the goal of building a European technological stack. The European DIGITAL SME Alliance considers this a strategic goal for securing [European tech sovereignty](#) and the creation of a truly sovereign European digital ecosystem.

However, **the regulatory framework should be designed to remain simple, clear, and easy to navigate, particularly for SMEs**, which often lack extensive legal and administrative resources. If the rules are overly complex, ambiguous, or burdensome, the regime risks becoming inaccessible to the very companies it is meant to support.

In what follows, initial recommendations<sup>2</sup> are advanced on points to be placed at the heart of the proposal on the 28<sup>th</sup> regime.

1. **The implementation should be guided by a pragmatic approach, which is why DIGITAL SME calls for regulation to be adopted as the legislative tool.** As a directly applicable measure that produces immediate legal effects across all Member States, a

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<sup>1</sup> CEPS analysis for the JURI committee in the EP

[https://www.europarl.europa.eu/RegData/etudes/STUD/2025/775947/IUST\\_STU\(2025\)775947\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2025/775947/IUST_STU(2025)775947_EN.pdf)

<sup>2</sup> Please note that these inputs only capture initial views on the 28th Regime proposal. A more comprehensive assessment will follow further to consultation with DIGITAL SME members.

regulation would ensure stronger legal certainty and faster implementation, a key consideration given the initiative's objective of harmonization.

- Effective and consistent enforcement across all Member States is critical to ensure the regime functions as intended.
  - Harmonization between the national legal framework of Member States, particularly in its application within national courts and tax systems, is vital to prevent conflicts with the overarching EU framework.
2. **The regime should be structured to be accessible to all small and medium-sized enterprises** (SMEs). As highlighted in the [Legal Affairs Committee of the European Parliament Draft Report](#), the possibility to access the regime should not be limited to a new category of "innovative companies" or to other limiting factors as that would create additional red tape and an unnecessary bureaucratic burden. Furthermore, **eligibility should not be confined to the moment of company formation**. Established companies that meet the criteria should be able to join the regime at any stage. The regulation must balance fostering future scale-ups with supporting resilient tech firms, aiming to build a strong, home-grown digital ecosystem<sup>3</sup>
  3. **Regulatory activity should focus on areas where the hurdles to expansion are greatest, particularly for smaller or innovative companies**. DIGITAL SME recommends prioritizing the four areas identified by the Commission in the [Identification of hurdles report](#): corporate law, insolvency, labour law and tax law.
  4. **Improving access to both financial and talent should be a central scope of the regime**, as deficiencies in these areas are key barriers to the growth and scaling potential of EU companies. Specifically:
    - a) As noted in the [EU Startup and Scale-up Strategy](#), startup founders need both funding and strong partnerships. Business angels play a key role in early-stage support but face high investment risks, while limited institutional investment in Europe hinders capital flow into strategic sectors.
    - b) SMEs face additional hurdles such as limited availability of late-stage funding and structural obstacles caused by legal fragmentation.Addressing these challenges requires greater regulatory clarity and stronger integration of existing support mechanisms.
  5. **The creation of a distinct "EU company" brand is strongly supported**, if accompanied by a clear and precise definition of qualifying criteria that actually take into account robust sovereignty criteria - especially company ownership, data

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<sup>3</sup> <https://www.digitalsme.eu/beyond-silicon-valley-scaling-the-european-way-to-attain-digital-leadership/>

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localization, and jurisdictional immunity to non-EU law. Such a development would represent a significant milestone toward building a sovereign European digital ecosystem.

## Conclusions

The European DIGITAL SME Alliance views the 28th regime as a vital opportunity to simplify the growth and operations of sovereign European SMEs and startups, thereby supporting the development of a robust European tech stack.

The regime should prioritize simplicity, clarity and accessibility, especially for smaller businesses. European DIGITAL SME Alliance advocates for a **pragmatic approach** with consistent enforcement and **harmonized application** across Member States, focusing particularly on addressing unjustified divergences in corporate, insolvency, labour and tax law.

The regime should be **accessible to all qualifying SMEs at any stage of their lifecycle**. Improving access to financial and labour resources, along with streamlining EU innovation support, are essential steps to unlocking the full growth potential of EU companies.

Representing the most innovative SMEs in Europe, DIGITAL SME stands ready to contribute to the development of this new legal form. The Alliance and its members are prepared to publicly support the 28th regime, including its harmonised application across Member States.