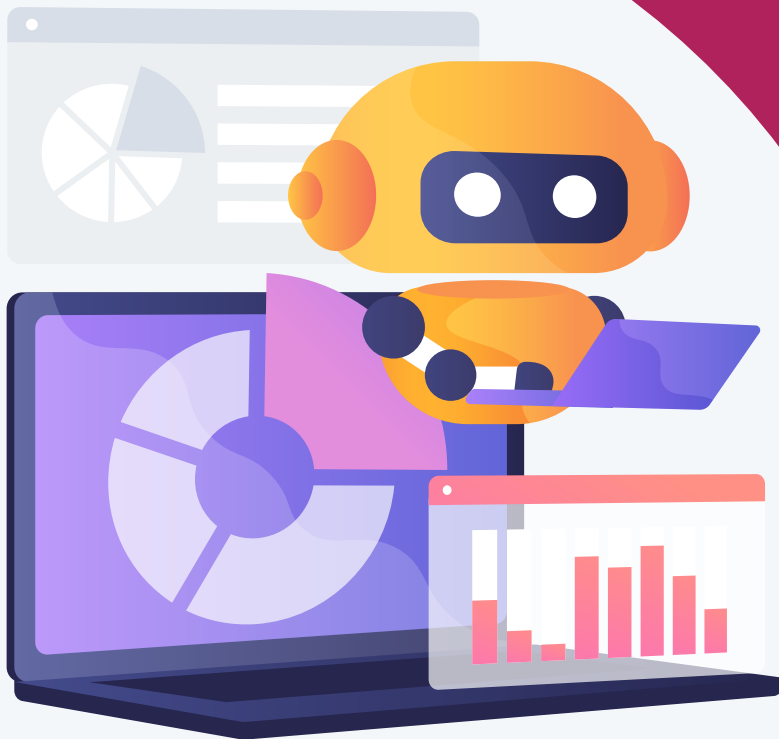


Prepared by:



# ***THE SME TEST***

Experiences from the EU,  
Western Balkans, and the Netherlands



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# 7

## Introduction

Although European Union (EU) and national legislation is designed to bring advantages to society and businesses, small and medium-sized enterprises (SMEs) in the EU frequently find this legislation to be too demanding and prohibitively costly to implement. EU SMEs often view regulatory obstacles and administrative burdens as their primary concern. Reducing the challenges for SMEs is crucial because they often feel the impact of regulations more than bigger companies. SMEs struggle with higher fixed costs, have trouble accessing affordable capital, and are at risk of unfair business practices due to unequal bargaining power with larger corporations (European Commission, 2021).

Simplified laws, administrative regulations, and processes offer SMEs significant advantages in addressing regulatory challenges, complying with legal requirements, and advancing EU-level policy objectives. Given that when transposing EU regulations, national, local, and regional governing bodies can introduce legislative demands that prove challenging for SMEs, it is advisable for current and future Member States of the European Union to establish a customary practice of applying their own methodologies for evaluating and quantifying the effects on SMEs. During Impact Assessments, the assessment of SME impacts should primarily focus on whether SMEs bear a disproportionately heavy burden and other difficulties compared to larger corporations. If such disparities exist, the assessment should explore alternative approaches or flexibilities that can assist SMEs in achieving compliance (European Commission, 2021).

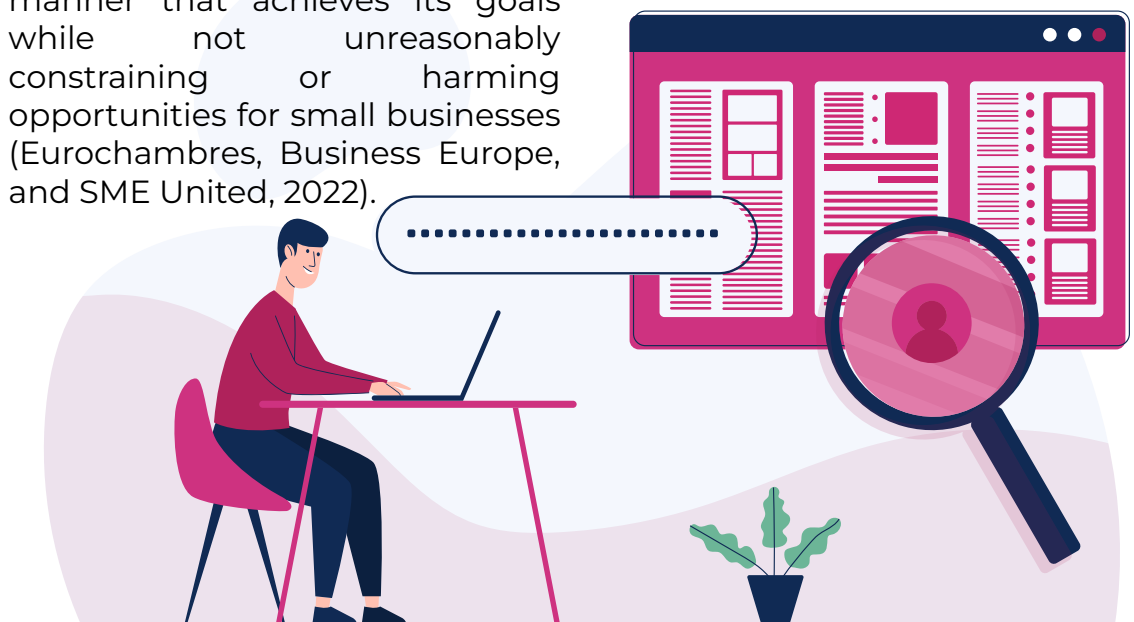


# 2

## THE EUROPEAN COMMISSION SME TEST

Impact Assessment (IA) plays a systematic role in directing and strengthening the development of new or altered policies. It identifies and assesses the relevant issues and intended objectives, specifies the primary strategies to achieve these goals, and investigates their expected impacts on the economic, environmental, and social dimensions. Furthermore, it outlines the costs and advantages linked to each policy option under consideration and explores possible unforeseen consequences, synergistic benefits, and trade-offs. The inclusion of the SME Test within any regulatory Impact Assessment is essential (European Commission, 2009). This Test aims to formulate a policy proposal in a manner that achieves its goals while not unreasonably constraining or harming opportunities for small businesses (Eurochambres, Business Europe, and SME United, 2022).

The basis for the SME Test lies in the core principles of the "think small first" approach (European Commission, 2021), emphasizing that policymakers should meticulously consider SMEs during the initial phases of policy development (European Commission, 2009). The SME Test acts as a necessary step in developing evidence-based policy initiatives that attain their objectives while reducing excessive or unequal burdens on SMEs. Therefore, using the SME Test correctly is crucial for establishing a regulatory framework that supports SMEs and, when applied effectively, it can lead to successful outcomes (European Commission, 2021).



Within the European Commission, the SME Test is an essential component of the Commission's approach to Impact Assessment since 2009. A key feature of the SME Test involves consulting with small business representative organizations or SMEs directly. The SME Test mandates the inclusion of SME interests at each of the analytical stages of an Impact Assessment (European Commission, 2009). In essence, these stages are broadly divided into four distinct steps:

- 1. Consultation with SMEs representatives.**
- 2. Preliminary assessment of businesses likely to be affected.**
- 3. Measurement of the impact on SME.**
- 4. Assess alternative options and mitigating measures.**

Evaluating the level to which the European Commission considers the regulatory needs of SMEs during the development of legislative proposals remains a challenging task. The SME Test Benchmark Report for 2022, jointly published by Eurochambres, Business Europe, and SME United, scrutinizes the implementation of the SME Test across various European Commission services. The goal of the benchmark is to offer recommendations for improving the formulation of SME-friendly policies. This report evaluates 26 Impact Assessments in accordance with the European Commission's Better Regulation Guidelines and analysed the views of the Regulatory Scrutiny Board (RSB) to determine whether and to what degree the SME Test, a mandatory component of the Impact Assessment process, is rigorously applied (Eurochambres, Business Europe, and SME United, 2022).

The SME Test Benchmark Report highlights that the utilization of the SME Test lacks consistency and systematic application. Key findings from the report include the following:

- **69% of Inception Impact Assessments (IIAs) for proposals include information regarding the impact on SMEs.**
- **In 62% of IAs, there is an adequate level of stakeholder engagement observed during consultations, most of which involve open public consultations.**
- **The SME Test demonstrates a need for improved differentiation in assessing the impact on various sub-categories of SMEs.**
- **IAs often fail to consider sufficient measures to mitigate challenges for SMEs.**
- **Out of the 26 consultations detailed in the IA report, 10 contain dedicated sections outlining the perspectives and concerns of SMEs (Eurochambres, Business Europe, and SME United, 2022).**



Recognizing these findings, BusinessEurope, Eurochambres, and SMEUnited urged the European Commission to consistently adhere to the guidelines of the SME Test (Eurochambres, Business Europe, and SME United, 2022). SMEUnited issued the four following recommendations: (1) enhance planning to facilitate substantive data collection by SME organizations; (2) give due

consideration to indirect and cumulative effects on SMEs; (3) ensure that the Impact Assessment comprehensively analyzes all policy options, not solely the preferred one, as nearly 40% of the Impact Assessments inadequately considered the implications of various policy options on SMEs; and (4) present the outcomes of the SME impact analysis within a dedicated section (SME United, 2023).



# 3

## ***THE SME TEST IN THE WESTERN BALKANS***

Presently, a growing share of the national regulations in EU Member States originates from the EU level. A comparable pattern is noticeable in candidate and potential candidate countries, including six administrations in the Western Balkans (WB) region. Through their endorsement of the Stabilization and Association Agreements (SAA), six Western Balkan (WB) administrations have undertaken to align their domestic legislation, both existing and future laws, with the *acquis*. As they seek to establish an effective framework for overseeing regulatory policies, WB administrations have adopted approaches like *ex ante* regulatory Impact Assessment (RIA), intensifying their endeavors to reduce risks and attain improved regulatory policy results more advantageously (SIGMA, 2021).

The RIA guidelines and methodologies employed by all WB administrations formally establish a rigorous standard for conducting analyses and evaluating options. They not only acknowledge but actively promote the systematic examination of various impact types, encompassing economic, social, and environmental considerations. These guidelines

universally underscore the importance of exploring alternative approaches during the analytical process (SIGMA, 2021).

Furthermore, the guidance documents published by these administrations emphasize the relevance of specific methodologies and focal areas for conducting Impact Assessments in alignment with priority policies. These areas may present tools to assess gender and social equality impacts, examinations of administrative burdens and assessments of business and SME implications.

The RIA guidelines and methodologies mandate the execution of particular impact analyses or assessments that cover, among other relevant issues, the impacts on competition and SMEs. Nevertheless, they may not consistently offer comprehensive practical guidance on how to carry out these specific impact analyses, nor do they always delineate how to leverage specialized expertise and resources from other relevant institutions to achieve optimal outcomes. Simultaneously, the established regulations do include some methodologies for conducting specialized Impact

Assessments (SIGMA, 2021).

In a comparative study carried out by SIGMA, which draws from an examination of the official regulations and methodologies and incorporates data and information supplied by the WB administrations during March and April 2020, it was noted that the full potential advantages of ex ante RIA in the process of drafting legislation and transposing EU laws have not been fully harnessed in the WB. The administrations analyzed in this study included the following: Albania, Bosnia and Herzegovina (BiH), Kosovo, Montenegro, North Macedonia, and Serbia (SIGMA, 2021).

In Albania, Kosovo, Montenegro, and North Macedonia, the obligation to conduct RIA is incorporated into each

government's Rules of Procedure (RoPs). In Serbia, the regulatory framework for RIA implementation is more extensive and is reflected in various legal acts, including a specific law. In the case of BiH at the state level, RIA was formally introduced through an amendment to the Uniform Rules for Legislative Drafting. (SIGMA, 2021).

Among various parameters, the SIGMA study examined the assessment of business impacts, specifically concerning SMEs, and the use of the SME Test. The study revealed that, according to existing methodologies, the SME Test is expected to be included in RIAs in Albania, Kosovo, and Serbia. However, in other countries like Bosnia and Herzegovina (BiH), Montenegro, and North Macedonia, it is not a mandatory requirement (SIGMA, 2021).

In the evaluation of 50 individual RIA samples and their accompanying documents conducted in the study, an assessment of the quality and depth of analysis concerning the impact on businesses, with a particular focus on SMEs, revealed varying degrees of coverage. Specifically:

- Only in 4 cases, the analysis was deemed to be comprehensive, offering an in-depth examination of the subject matter.
- In 19 instances, the analysis was moderately, providing at least some level of insight.
- In 8 cases, the coverage was minimal, with only basic attention given to the topic.
- In 11 cases, the analysis was altogether absent, with no consideration of the subject even though it was deemed relevant.
- In 8 other cases, the analysis was considered either not applicable or not relevant to the context (SIGMA, 2021).

# 4

## **THE DUTCH SME TEST**

Around seven years ago, the Dutch Employers Association for SMEs (MKB-Nederland) and the Dutch parliament jointly recognized that Dutch small and medium-sized enterprises (SMEs) were frequently burdened by legislation that often proved impractical for them. Despite the long-standing existence of the "think small first" principle as part of the legislative framework, the actual impact of this principle had been limited. This concern prompted the Dutch parliament at the end of 2016 to pass two motions, urging the government to implement a distinct SME Test.

In response, the Ministry of Economic Affairs and Climate Policy conducted a pilot study during the period of 2017 to 2018 to proactively evaluate ex-ante the possibilities to implement new legal requirements for SMEs and, consequently, assess their regulatory burdens. This pilot initiative involved the implementation of seven SME Test across the most significant legislative ministries. Following a comprehensive evaluation of the pilot's outcomes, the Dutch government made the strategic decision to extend the application of the SME Test to all forthcoming legislation anticipated to have a

substantial impact on SME regulatory obligations, effective from April 2019.

In 2021, a thorough evaluation of the Dutch SME test was undertaken, yielding predominantly positive outcomes (MinEZK, 2021).

### **4.1 PURPOSE AND INTENT OF THE SME TEST**

The Dutch SME Test is designed to enhance the quality of new legislation by evaluating its implementability, workability, and, indirectly, the regulatory burdens it may impose on SMEs during the drafting stage. Following consultations with key stakeholders, it was determined that, rather than introducing yet another formal test, implementability would be assessed through mandatory consultations with relevant MKB entrepreneurs in panel meetings as early as possible in the drafting process.

This decision stemmed from two primary considerations. Firstly, the Dutch legislative system already incorporated numerous formal tests and procedures, including

the legislative test, regulatory burdens test, implementation & enforcement assessments for executive branches and supervisory bodies, the Business Impact Test (BIT), public internet-based consultations, and others, all falling under the framework of Impact Assessments (Integraal Afwegingskader, IAK – relaunched as Beleidskompas). Although the "think small first" principle was integrated into the BIT, not all components of the IAK were consistently applied, with the BIT lacking effective oversight.

Furthermore, these tests and procedures typically occurred in the later phases of drafting new legislation, making it significantly more challenging to introduce substantive changes. In contrast, the early drafting stage offered the best opportunity to steer the legislative process in a different – more SME friendly – direction.

## 4.2 THE SME TEST IN PRACTICE

To ensure the efficacy of the SME Test, a set of principles and regulations have been established under the oversight of the Ministry of Economic Affairs and Climate Policy. For each examination, a fresh panel comprising relevant entrepreneurs is required to be convened. This panel must consist of a minimum of five entrepreneurs representing SMEs, ideally representing varying specializations and firm sizes. Representatives from industry organizations and supervisory bodies are not invited since they can provide comments during the later stage of public internet-based consultation and other consultation channels. The idea is that SMEs are especially well-positioned – due to their daily experience with implementation of legislation – to provide practical feedback and to identify potential implementation challenges.

The guidelines for the Dutch SME Test also require ministries to assess at the beginning of the drafting process whether a SME Test is warranted. In cases of uncertainty, consultation with the Dutch Advisory Board on Regulatory Burden, ATR, is an option. At least a week before the panel meeting, a concise fact sheet must be sent to SMEs, offering a straightforward explanation of the problem, objectives, and the legal solution envisaged by policy officers. The



panel meeting's purpose and confidentiality, focus, and other rules are also explained in an annex.

An independent chair and a note-taker are provided by the ministry, with the responsible policy officer present to offer further clarification and address questions. Comments and suggestions gathered during the meeting are one of many inputs for the officer. The draft meeting report is circulated for comments before being finalized. Subsequently, the explanatory notes of the legislation are required to include a brief summary of the panel meeting's results and how the policy officers have addressed the main comments and suggestions, along with the rationale for their decisions.

The employers' association and member industry organizations

have agreed to collaborate in identifying a sufficient number of SME participants. This is often the most time-consuming aspect of conducting an SME Test. These organizations can also play a role in identifying new legislative initiatives that could significantly impact SMEs. Additionally, they provide input on whether a panel meeting should be organized, giving their opinion on the level of interest from SMEs. Experience has shown that it can be frustrating for all parties involved if a panel meeting has to be canceled shortly before the scheduled date due to a lack of participating SMEs.

During the 2018/2019 pilot phase, panel meetings were held at the ministries' offices. However, in the subsequent years, these meetings transitioned to online formats due to the COVID-19 pandemic. This shift proved successful, saving travel time for SME entrepreneurs.







### 4.3 RESULTS AND EVALUATION OF THE DUTCH SME TEST

As of mid-2023, a total of 54 SME Test have been executed since the inception of the program. This figure could have been even more substantial were it not for the impact of the Covid-19 pandemic and the delayed commencement of SME Test by the Treasury Department and the Ministry of Agriculture, Nature, and Food Quality.

In the 2021 evaluation from the Ministry of Economic Affairs and Climate Policy, which occurred two years after the rollout, the research questions were as follows:

*To what extent was the SME Test conducted when required, and to what extent were justifications provided in the explanatory notes for not conducting the test?*

The evaluation indicated that the test was conducted in about 80% of cases with a substantial impact

on regulatory burdens, while it was not conducted in 20% of cases. Justifications for not conducting the SME Test were only occasionally found in the explanatory notes.

*Did the SME Test offer useful input for the policy officers and have they taken that input seriously in the follow up in the drafting process?*

The evaluation revealed that policy officers almost always considered the panel meetings useful, and this finding was also confirmed by SME entrepreneurs. In approximately half of the cases examined, the test resulted in changes, primarily reflected in the explanatory notes of the legislation. To date, there have been three instances (6%) where legislative initiatives were either retracted or reconsidered as a result of the test. In most cases, the explanatory notes contained a description of the panel meeting's conclusions and how they were addressed, although occasional omissions were noted.

*What were the experiences of all parties involved in the process before, during, and after the panel meetings? The evaluation has shown several points of improvement.*

The search for interested SME entrepreneurs was often challenging, leading to recommendations for enhancing the search process by industry organizations, including anticipating requests for SME participants. Moreover, it was suggested that board members of industry organizations who also run SMEs should be allowed to participate in panel meetings as long as they speak from an entrepreneurial perspective.



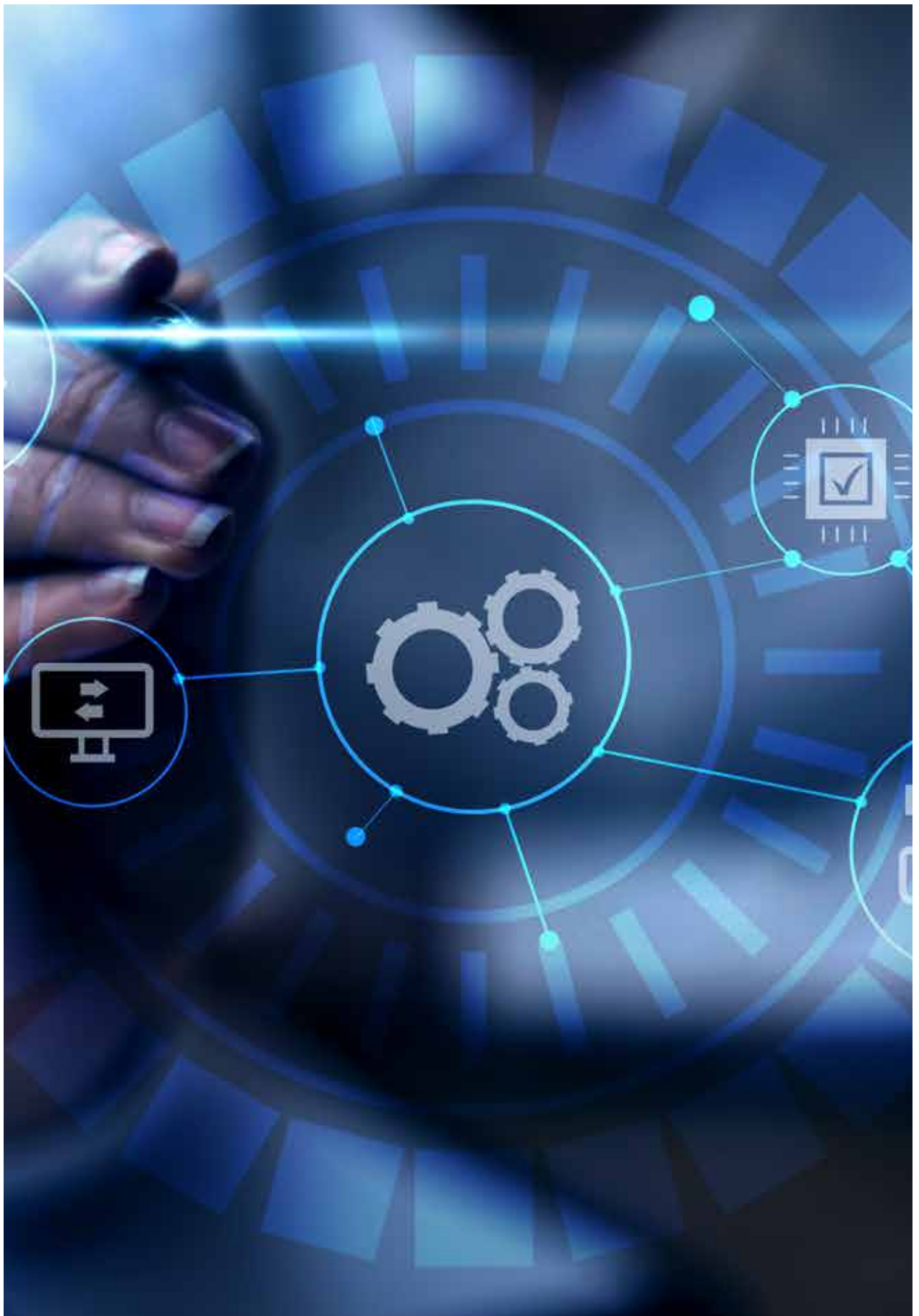
To address instances where policy officers failed to recognize the necessity for an SME Test or did so too late, the evaluation report recommended increasing awareness of the test itself and the obligation to conduct it in specific cases. Additionally, it suggested improving communication in general and refining the tools such as guidelines.

A general recommendation was made to establish a small support desk at the coordinating Ministry of Economic Affairs and Climate Policy to provide more assistance to policy officers and industry organizations in their activities before panel meetings. However, this should not diminish the responsibilities of all parties involved.

Another recommendation proposed organizing panel meetings one year after the legislation's implementation date to assess whether implementation issues have arisen. These panels should have broader compositions, including representatives from executive or supervisory bodies and industry organizations.

Finally, the evaluation prompted a change in the standard questions addressed during panel meetings. In new panel meetings, there should be an explicit inquiry into whether less burdensome options compared to the intended content of the new legislation are possible.





# 5

## **LESSONS LEARNED FROM THE SME TEST APPLICATION**

A comprehensive assessment, whether focused on past or future impacts, should scrutinize if SMEs bear a disproportionate burden or face disadvantages compared to larger corporations. When such discrepancies are identified, it's imperative to explore alternative methods or adaptable approaches that can facilitate SME compliance when reevaluating the policy initiative (Eurochambres, 2022).

The process of identifying impacted businesses shares common elements across the EU. Conformity with EU norms in the process of identifying the effects of policies and legislation on SMEs is also evident in the Western Balkans. The process of harmonizing legislation in WB with EU standards is steadily

progressing. SMEs employ a significant portion of the workforce in WB countries, typically employing between 60% and 80% of the working population, a proportion that tends to exceed the EU average (WB EDIF, n.d.). SMEs also risk operating outside the legal system, which can also be attributed to difficulties to understand and implement legal requirements.

Consequently, fostering effective consultation, ensuring legislative certainty for SMEs, and enhancing the interaction between SMEs and governmental bodies are crucial factors for driving the holistic growth and advancement of the Western Balkans economies (WB EDIF, n.d.; SIGMA, 2021)



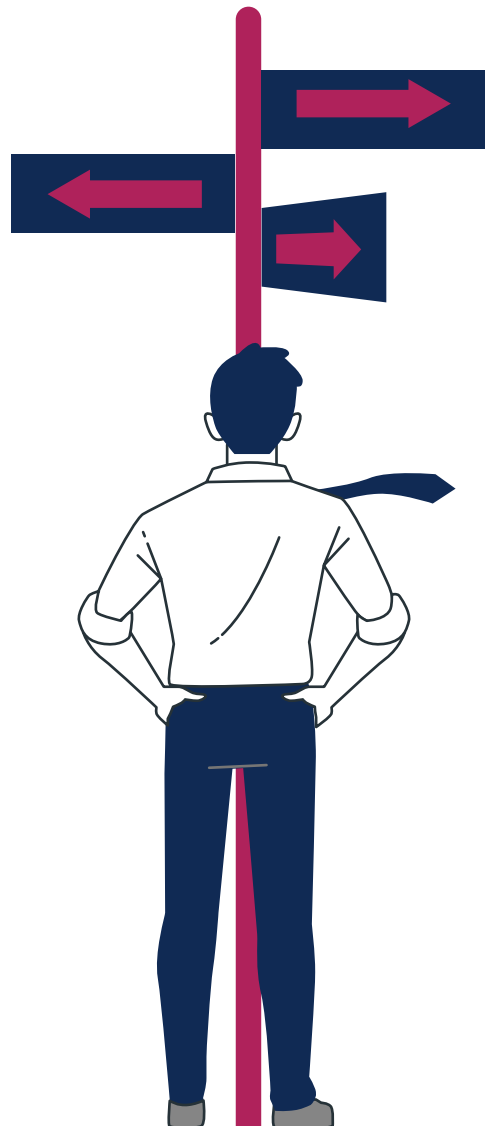
## 5.1 THE SME TEST

Within EU, the SME Test serves as a fundamental element of the RIA framework. This tool stands out in the array of regulatory management instruments and plays a pivotal role in providing policymakers with critical insights into the prospective effects of regulations on SMEs. The Test considers the unique characteristics of SMEs and assesses the proportionality of these impacts. Furthermore, the Test aids in the identification of relevant stakeholder groups that might be affected and assists in formulating regulatory or non-regulatory alternatives aimed at achieving desired objectives with reduced burdens on SMEs (Eurochambres, Business Europe, and SME United, 2022).

The significance of the SME Test within the RIA framework becomes especially apparent when considering its relevance for the Western Balkans. The largely untapped potential benefits of implementing ex ante RIA as part of the government decision-making processes and aligning with EU regulations are of paramount importance in the WB (SIGMA, 2021).

WB governments harbor ambitious aspirations for integration with the European Union, often operating under tight timelines to develop and ratify a substantial volume of new regulatory measures aimed at

meeting EU standards. Therefore, enhancing the application of the SME Test is imperative for all WB administrations, as it plays a pivotal role in comprehending the implications for SMEs. This enhancement is critical in curtailing unnecessary costs and bolstering the ability of line ministries of the WB administrations to effectively advocate for policy interests at the EU level (SIGMA, 2021).



## 5.2 DESIGN DIFFERENCES: THE EU VS. DUTCH SME TEST

The design of the SME Test can vary from one country to another. In the Netherlands, the SME Test is part of a comparable form of RIA analysis. However, the Dutch Test does not encompass the specific segmentation based on the size of businesses, as employed in the EU's SME Test. The Netherlands employs an unconventional and advisable approach for addressing SME concerns during the early staged of the regulatory development process, opting for direct engagement through consultation. This is realized through panel discussions featuring individual SMEs, entrepreneurs, and representatives of SME organizations. In these dialogues, regulatory authorities collaborate closely with SME stakeholders to meticulously assess the practicability and viability of the legislative proposal. The primary focus of these consultations is to comprehensively understand the potential impact on SMEs, especially regarding the regulatory burden they might face (Jennifer, n.d.).

Other distinctions in the design features between the EU and Dutch SME Test include differences in the stage of internet-based consultation, feedback collection methods and timeframes, and oversight

mechanisms. To begin, the Dutch SME Test is executed during the initial phases of the legislative drafting process and based on specific regulatory ideas. The primary focus is on assessing the possibilities for SMEs to implement the rules under consideration, indirectly considering their regulatory burdens. Due to its early timing, achieving precise quantification of regulatory burdens is often challenging, leading to the reliance on expert estimations as the most feasible approach. Conversely, within the European Union, the consultation does not pertain to the draft proposal itself. Instead, it occurs during the IA stage before the actual drafting of the proposal making a detailed assessment of implementation challenges and regulatory burdens less effective (European Commission, 2021).

Furthermore, when it comes to gathering feedback, both the European Commission and the Netherlands hold the expectation of robust engagement with and from businesses. However, differences manifest in the methodologies employed for collecting feedback and the allocated duration for responses. In the Netherlands, it is the responsibility of companies and business organizations to proactively provide their comments. In contrast, the EU generally utilizes surveys and consultation questionnaires as tools to solicit input (European

Commission, 2021). Additionally, the feedback submission period in the Netherlands generally spans approximately six weeks, a notable distinction from the European Union's timeframe, which extends to a duration of 12 weeks (European Commission, 2021). Lastly, there is a notable difference between the oversight mechanisms in place for the EU's SME approach and its Dutch counterpart. The European Union benefits from a comprehensive oversight system administered by the Regulatory Scrutiny Board, which covers all facets of the RIA process. Conversely, the Netherlands upholds a more restricted oversight scope, with specific components of the IA framework, particularly those related to regulatory burdens and less cumbersome alternatives, falling under the purview of oversight. This oversight role encompasses the assessment of results derived from the Dutch

SME Test and is primarily overseen by the ATR (The Dutch Advisor Board on Regulatory Burden).

In conclusion, it is evident that in the Netherlands, there is a notable emphasis on evaluating the viability of new legal regulations for SMEs and scrutinizing the effects of regulatory burdens on businesses. This emphasis is primarily attributed to the early incorporation of the SME Test and the oversight conducted by the ATR (The Dutch Advisor Board on Regulatory Burden). Conversely, the EU approach involves the examination of alternatives and the endeavor to quantify various impacts. The nature and complexity of this EU decision-making process and the absence of a mechanism to perform an SME Test on a draft of a legislative text can pose challenges in assessing the direct influence of SME Tests on the ultimate legislative outcomes.

## 5.3 DEVELOPING AN EFFECTIVE SME TEST

The aim of considering SMEs in the regulatory process is not to confer an advantage upon them at the expense of other business types, but rather to ensure a fair and level playing field. To conduct an effective SME Test, the initial step is to devise this regulatory management tool, considering established best practices in regulatory assessment while aligning it with the country's regulatory and SME policy framework (Jennifer, n.d.).

The design of the SME Test should factor in several elements, including at what stage in the decision-making process it should occur, the early engagement of SMEs, and its suitability and proportionality for various types of regulatory proposals (e.g., laws or regulations). A well-thought-out design that considers the timing, scope, and applicability of this tool can facilitate systematic and consistent testing by policymakers at a later stage (Jennifer, n.d.).

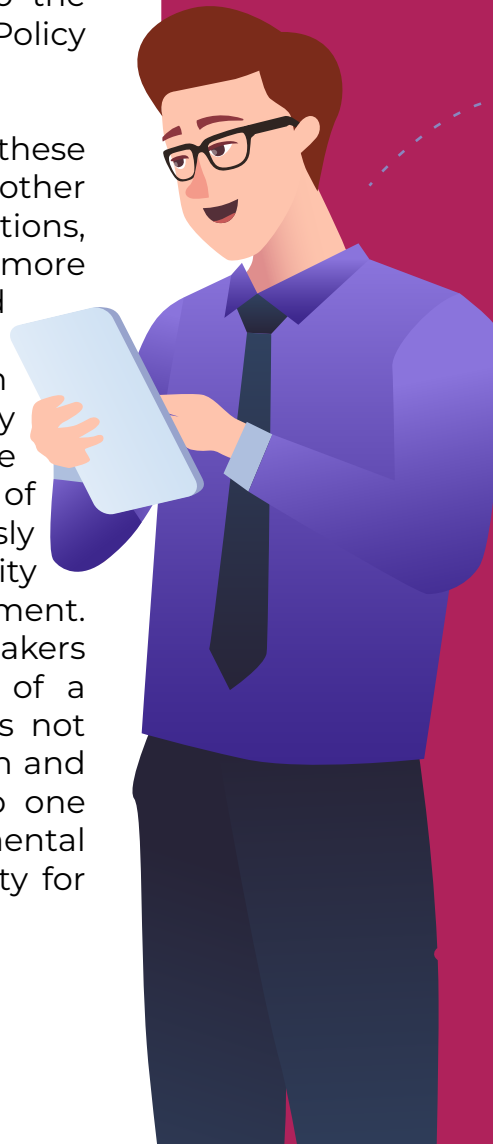
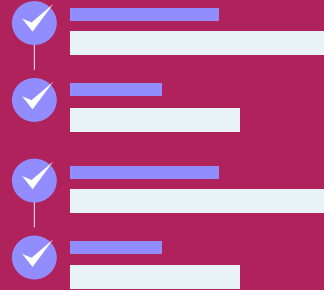


## Developing an SME Test should encompass the following key actions:

- **Understand the SME Population:** Begin with the adoption of a well-defined and consistently applied SME categorization. Recognize the diversity and nuances within SMEs and entrepreneurs. Understand how regulations can affect various segments of SMEs.
- **Incorporate SME Perspectives Early:** Include SME perspectives in the decision-making process from the outset. Determine if solutions addressing the identified policy issue are relevant to SMEs, and if so, explore alternative approaches to achieve the desired outcomes. Policymakers should actively engage with a diverse range of SMEs during the SME Test.
- **Define the Scope of the SME Test:** The SME Test should be applied to a wide spectrum of policy issues, regulatory proposals, and existing regulations. However, the extent of the test should align with the expected impacts and be proportional. The SME Test should adapt to the regulatory and SME-policy framework of each country.
- **Assess the Relevance of SMEs for Policy Objectives:** Evaluate the role of SMEs in achieving the goals of the policy under consideration.
- **Identify and Evaluate Costs, Benefits, and Impacts:** Thoroughly examine the costs, benefits, and other consequences following the SME Test.
- **Ensure Transparency:** Maintain transparency throughout the SME Test process to enhance its credibility and accountability.
- **Establish Oversight Mechanisms:** To ensure comprehensive and objective consideration of all aspects of the SME Test, an independent entity or individual should review the test. This reviewing body or person can offer opinions on the quality and content of the SME Test, ranging from recommendations for improving results to potential revisions. They can also recommend future testing or, in extreme cases, reject the test if it lacks essential elements.
- **Utilize Test Results:** The outcomes of the SME Test should inform decision-making and directly influence the final regulatory measures.
- **“Test the Test”:** Regularly evaluate the robustness and effectiveness of the SME Test to ensure it continues to meet its intended objectives (Jennifer, n.d.).

This comprehensive analysis highlights that the impact and effectiveness of SME Tests in influencing policy outcomes build on a network of interrelated factors. These encompass the suitability of the proposed legislation for scrutiny through the test, the test's capacity to thoroughly assess the pertinent facets of the regulation, the quality of underlying data and investigations, which encompasses the crucial element of stakeholder consultations, and the extent to which the test outcomes are thoughtfully and meaningfully integrated into the final legislative draft (SME Policy Institute Association, n.d.).

By diligently addressing these elements, along with other essential considerations, policymakers can cultivate a more effective and all-encompassing SME Test. This enhanced approach ensures that regulatory decisions are aligned with the diverse and specific needs of SMEs, while simultaneously fostering fairness and equity within the business environment. In doing so, policymakers contribute to the creation of a regulatory framework that is not only conducive to the growth and prosperity of SMEs but also one that upholds the fundamental principle of equal opportunity for all businesses.



# 6

## **RECOMMENDATIONS**

To improve the assessment and support of small and medium-sized enterprises, it is essential to implement a set of recommendations that take into account the specific needs of this vital economic sector. These recommendations would naturally need to be placed in the context of the policy development process of individual countries in line with their capacities.

One crucial step in the direction of improving the situation for SMEs is the establishment of the SME Test as a dedicated analytical tool within all WB administrations. By making the SME Test a distinct and separate tool, the administrations can effectively evaluate the impact of legislation on SMEs. This ensures that any regulatory changes or policy decisions consider the unique challenges and opportunities faced by SMEs, promoting a more conducive business environment. Business associations in the WB can play a pivotal role in advocating for the adoption and application of the SME Test. Their support is critical in raising awareness among policymakers and stakeholders about the significance of assessing legislative impacts on SMEs. By engaging with these associations, we can harness their expertise and

collective influence to champion the cause of SMEs and strengthen the adoption of the SME Test.

Furthermore, the EU Institutions should take proactive steps to enhance the application of the SME Test. To achieve this, the EU should conduct a comprehensive evaluation of the implementation challenges and regulatory burdens associated with the SME Test. This evaluation should be based on the regulatory proposal presented by the European Commission. By identifying and addressing obstacles to effective application, the EU can ensure that the SME Test serves its intended purpose and facilitates the growth of SMEs across the region.

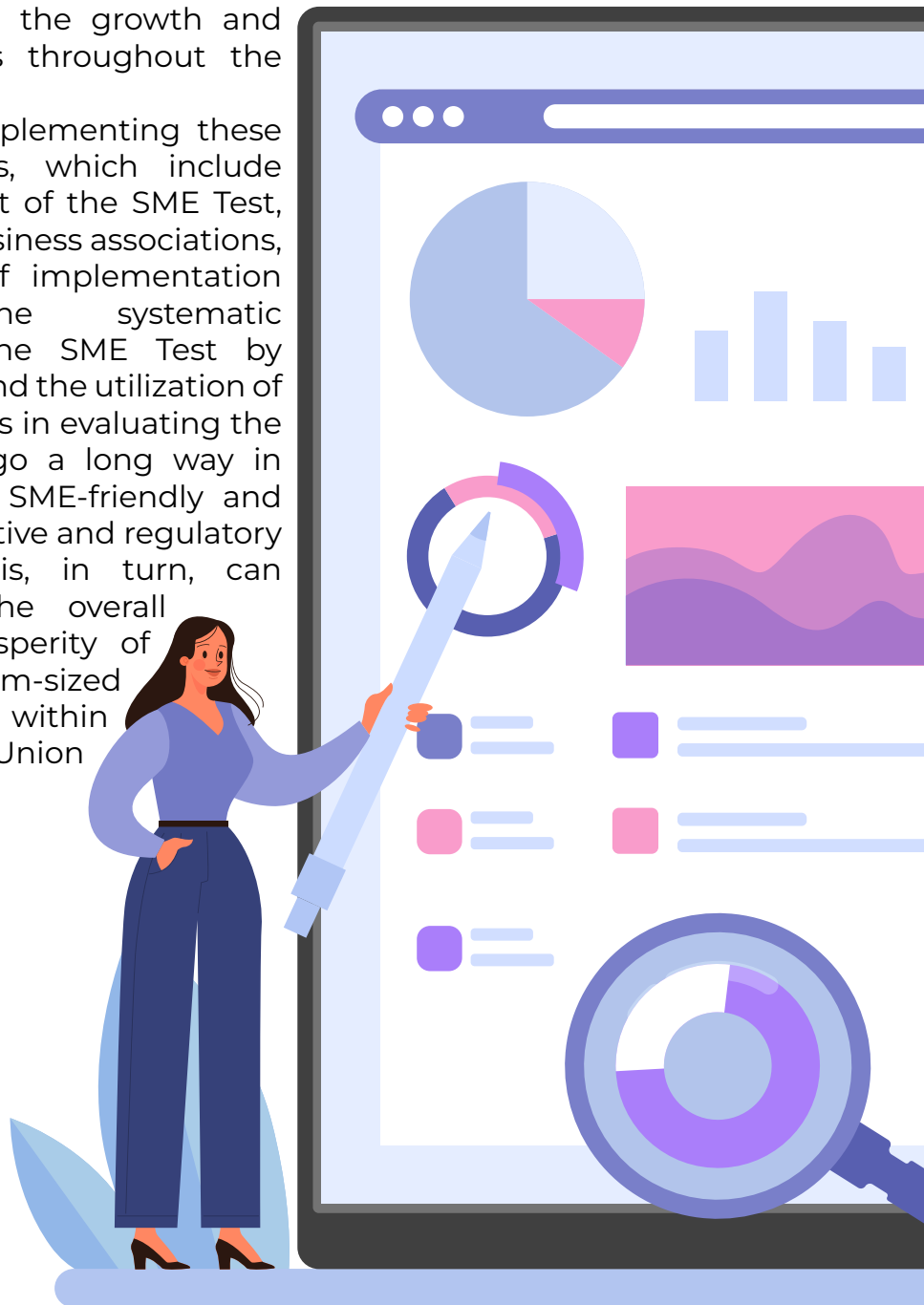
A fundamental aspect of ensuring the effectiveness of the SME Test is its systematic application in the transposition of EU Law by current and future EU Member States. These states should integrate the SME Test into their legislative processes, making it a routine part of lawmaking. By doing so, they can harmonize their legal frameworks with the unique needs of SMEs, fostering a more supportive business environment. Administrations need to ensure that strong supervision is embedded in the decision-making process to check



whether the consultation of SMEs has taken place and whether the results are used in the drafting process. This supervision could potentially be linked to the RIA process and should be aimed at a systematic application of the SME Test across the administration.

Finally, the European Commission should utilize the national SME Tests as valuable tools in evaluating the EU Acquis. This approach aligns with the "evaluate first" principle and strengthens the application of the principle in the context of SMEs. By considering the results of national SME Tests, the Commission can make better informed decisions about regulatory changes and ensure that EU policies are conducive to the growth and success of SMEs throughout the European Union.

In conclusion, implementing these recommendations, which include the establishment of the SME Test, the support of business associations, the evaluation of implementation challenges, the systematic application of the SME Test by Member States, and the utilization of national SME Tests in evaluating the EU Acquis, will go a long way in creating a more SME-friendly and supportive legislative and regulatory environment. This, in turn, can contribute to the overall growth and prosperity of small and medium-sized enterprises both within the European Union and worldwide.





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