

SME VERIFICATION

SMEs and REACH

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Company size



Why ECHA verifies the company size

- To ensure equal treatment
- To support fair competition
- To guarantee that only SMEs benefit from fee reductions

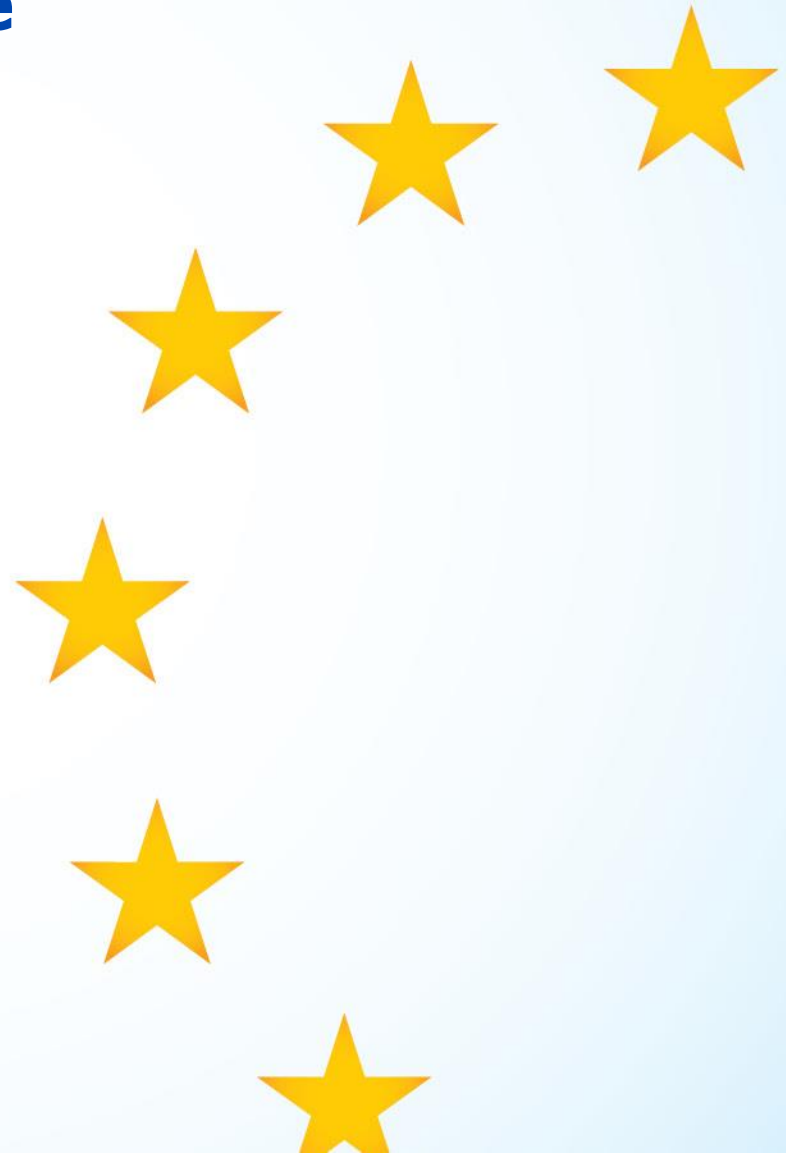
What to take into account when assessing the company size?

- Ownership structure at the time of each submission
- Account closure and years of reference
- Headcount of staff (AWU)
- Audited financial accounts and/or consolidated financial accounts

If you realise you declared the wrong size

- Follow the instructions on the SME web pages on ECHA's website
- Inform ECHA via the Helpdesk webform
- Update the company size in REACH-IT

Legal basis and outcome



Verification initiated by ECHA

Pursuant to Article 13(3) of the Fee Regulation, the 'Agency may request, at any time, evidence that the conditions for a reduction of fees or charges or for a fee waiver apply'.

- Request for documentary evidence supporting the declared SME size
- Analysis and verification
- Communication of the results

Outcome of the verification

- No supplementary invoices for confirmed correct size
- Top-up and administrative charge invoices* for detected misquoted size
- Failure to provide sufficient documentary evidence leads to top-up and administrative charge invoices for non-SMEs

* 1. No administrative charge in case of admittance of wrong size prior initiated verification

* 2. Administrative charge reduced by 50 % in case of admittance of wrong size within a set deadline, following ECHA's initiation of the verification, in accordance with Management Board Decision MB/21/2012/D

* 3. Full administrative charge in case if wrong size has been found by ECHA during the process of SME verification

Case studies

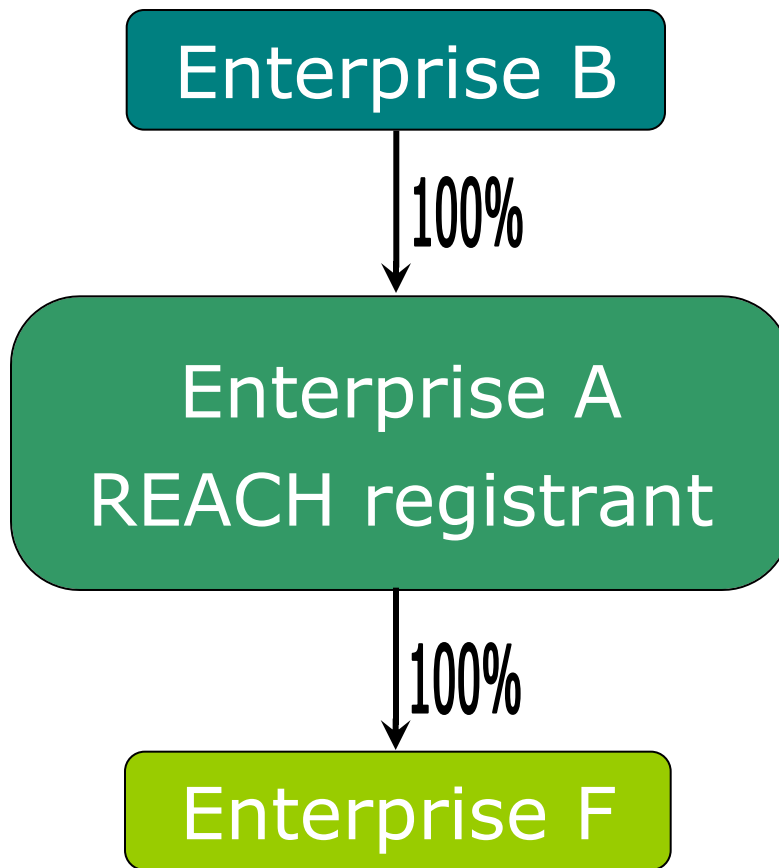


Case study 1 - Illustrative example

Enterprise A
REACH registrant

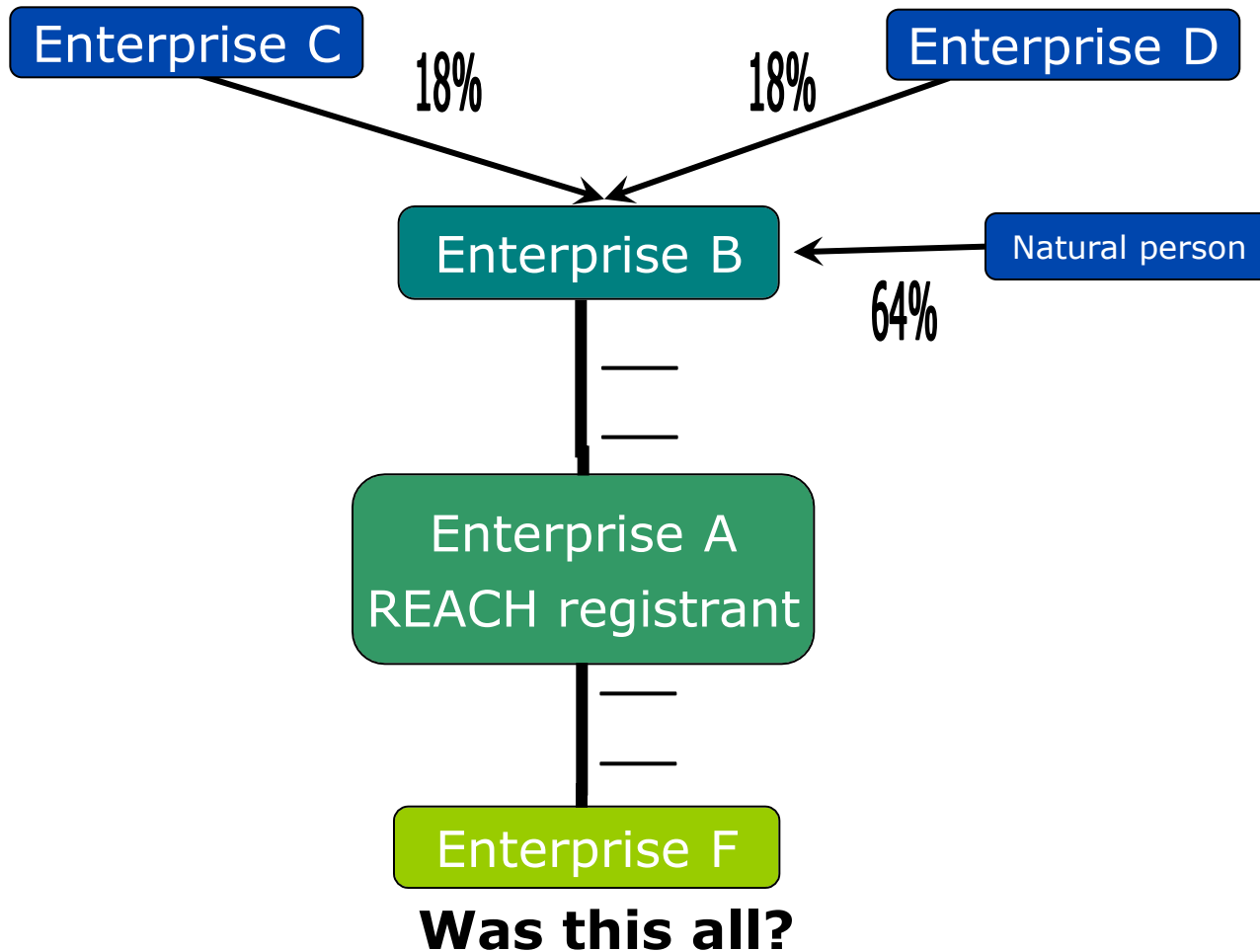
Is this company autonomous?

Case study 1 - Illustrative example

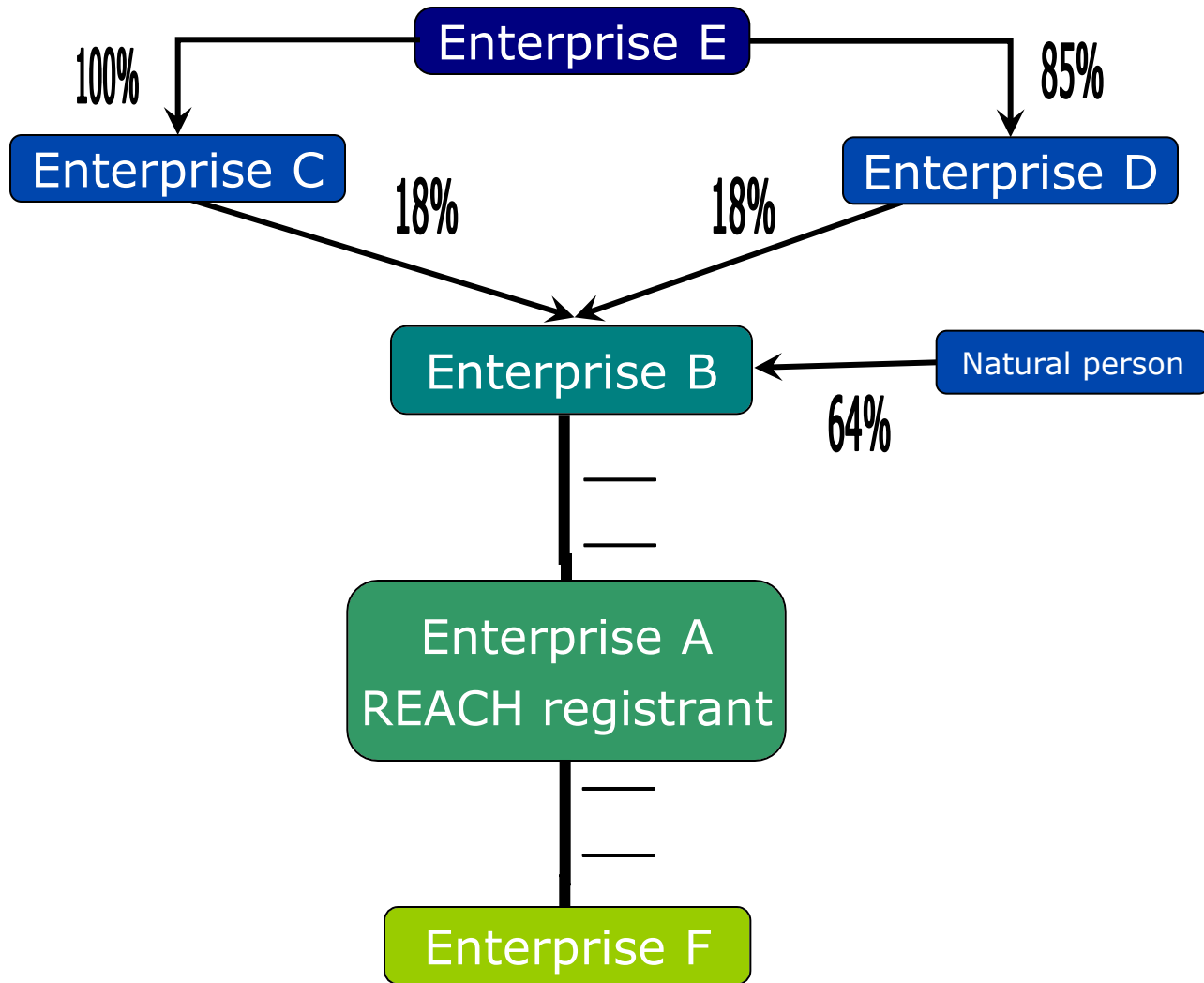


What next?

Case study 1 - Illustrative example



Case study 1 - Illustrative example



Case study 1 - Illustrative example

Please note that the linkages given below are purely illustrative and do not cover all possible variations of partner and linked enterprises that an enterprise may have

What we know?

At the time of the dossier submission in REACH-IT:

- **Enterprise A** owns 100% of the stakes of **enterprise F**, while **enterprise B** is the sole shareholder of **A** owning 100% of its business.
- **Enterprise B** has 3 shareholders: **enterprises C and D** each holding 18% of its stakes and **Mr. John Doe** is **B's** majority shareholder owning the remaining 64% of its stakes.
- **Enterprises C and D** have a common majority shareholder – **enterprise E** holding 100% of the stakes of **C** and 85% of the stakes of **D**.

How to establish the data of A?

Case study 1 - How to establish the data of A?

1. Q: Is company 'A' an autonomous enterprise?

A: No

2. Q: Is company 'A' a linked enterprise?

A: Yes

Enterprise **A** is **linked** to enterprise **F** (through a holding of 100% that **A** has in **F**) and to enterprise **B** (through a holding of 100% that **B** has in **A**).

3. Q: Is company 'A' a partner enterprise?

A: Yes, enterprise A is a partner enterprise

At the first sight enterprise **A** would not be considered to have any indirect partner enterprises due to the fact that the majority shareholder of **B** (**A**'s immediate sole shareholder) is a natural person and the remaining 2 shareholders are holding less than 25% of **B**'s shares.

However, enterprise **B** is a partner enterprise to **C, D and E** because **C, D and E** are linked to each other, and jointly as a group they own 36% of the stakes of enterprise **B**.

Since, as mentioned above **B** is a linked enterprise to **A** and at the same time **B** is a partner enterprise to **C, D and E**, consequently enterprise **A** is to be considered as a partner enterprise to **C, D, and E**.

To calculate the data of **A**, we add the relevant percentages of the data for **B, C, D, E, and F** to the total data of **A**.

A TOTAL = 100% of A + 100% of F + 100% of B + 36% of (C+D+E)

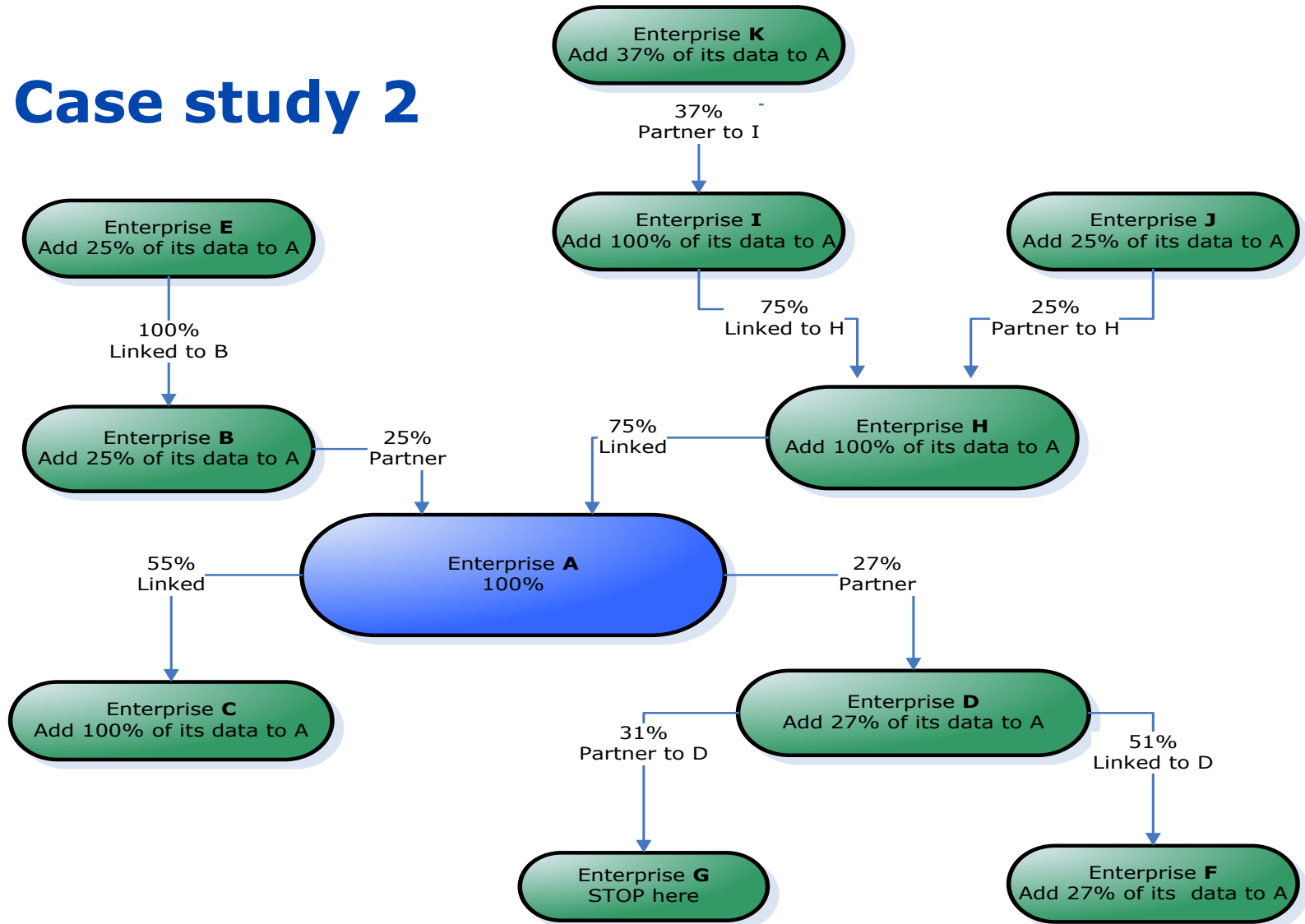
Case study 2 - Illustrative example

Please note that the linkages given below are purely illustrative and do not cover all possible variations of partner and linked enterprises that an enterprise may have

- Enterprise A owns 55% of C and 27% of D, while B has a 25% stake in the business of A and H has 75% stake in the business of A.
- D from its side has 51% stake in the business of F and 31% stake in the business of G.
- E owns 100% of the stakes of B.
- J owns 25% of the stake in the business of H and the remaining 75% of H are owned by I.
- 37% of the stake in the business of I are held by K.

How to establish the data of A?

Case study 2



Case study 2 - How to establish the data of A?

- Enterprise **A** is **linked** to enterprise **H** (through a holding of 75% that **H** has in **A**) and to enterprise **C** (through a holding of 55% that **A** has in **C**). Enterprise **H** should be considered as partner to **J** (through a holding of 25% that **J** has in **H**) and as linked to **I** (through a holding of 75% that **I** has in **H**). Enterprise **I** is also to be considered as partner to **K** (through a holding of 37% that **K** has in **I**).
- Enterprises **B** and **D** are to be considered as **partner** enterprises to **A** based on the following: **B** has 25% stakes in the business of **A** and **A** has 27% in **D**. But **B** is also to be considered as **linked** to **E** because **E** has a holding of 100% in the business of **B**. **D** from its side is **linked** to **F** through 51% holding and **D** and **G** are **partners** due to 31% holding of **D** in the business of **G**.
- To calculate the headcount and financial data of **A**, we add the relevant percentages of the data for **B, C, D, E, F, H, I, J** and **K** to the total data of **A**.
- The data of **G** **should not** be taken into account, because this partner enterprise is not directly or indirectly situated **immediately upstream/downstream** from enterprise **A**.

A TOTAL = 100% of A + 25% of B + 25% of E + 100% of C + 27% of D + 27% of F + 100% of H + 100% of I + 37% of K + 25% of J.

Tips, tools and guidance



Tips – Key Messages

- Always consult the Finance – Accounting – Legal department before declaring the company size in REACH-IT.
- Extra attention to the linked/partner companies - need for consolidated accounts.
- Be prepared to provide the correct supporting documents at ECHA's request.
- The Only Representatives should declare the size of the non-EU manufacturer that they represent and **NOT** that of their own.

Tips – Key Messages

- Keep the company size updated in REACH-IT at all times.
- Non-payment of invoices resulting of the SME verification will have severe legal consequences including revocation of the registration.
- **Benefit from a 50% reduction* of the applicable administrative charge by admitting wrong size within a set deadline, following ECHA's initiation of the verification.**
- Avoid the administrative charge by informing ECHA about a mistake in the company size prior the **initiation** of SME verification.

* In accordance with the Management Board Decision MB/21/2012/D as amended by decision MB/14/2015

SME Tools and guidance

- Commission Recommendation 2003/361/EC
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>
- Electronic SME test
http://ec.europa.eu/research/sme-techweb/index_en.cfm
- European Commission - The new SME definition - User guide and model declaration
http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf
- Commission Regulation (EC) No 340/2008
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:107:0006:0025:EN:PDF>
- Management Board decision MB/D/29/2010
http://echa.europa.eu/doc/about/organisation/mb/mb_29_2010_d_final_decision_on_the_classification_of_services_for_which_charges_are_levied.pdf
- Management Board decision MB/21/2012/D, amending decision MB/D/29/2010
http://echa.europa.eu/documents/10162/13608/mb_decision_21_2012_en.pdf
- Management Board decision MB/14/2015, amending decision MB/D/29/2010 as amended by decision MB/21/2012
http://echa.europa.eu/documents/10162/13608/mb_decision_14_2015_en.pdf
- SME pages
<http://echa.europa.eu/web/guest/support/small-and-medium-sized-enterprises-smes>
- News alerts
<http://echa.europa.eu/support/small-and-medium-sized-enterprises-smes/sme-fees-under-reach-and-clp>
- ECHA>Support>Q&As
<http://echa.europa.eu/support/qas-support/qas>

Thank You.

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