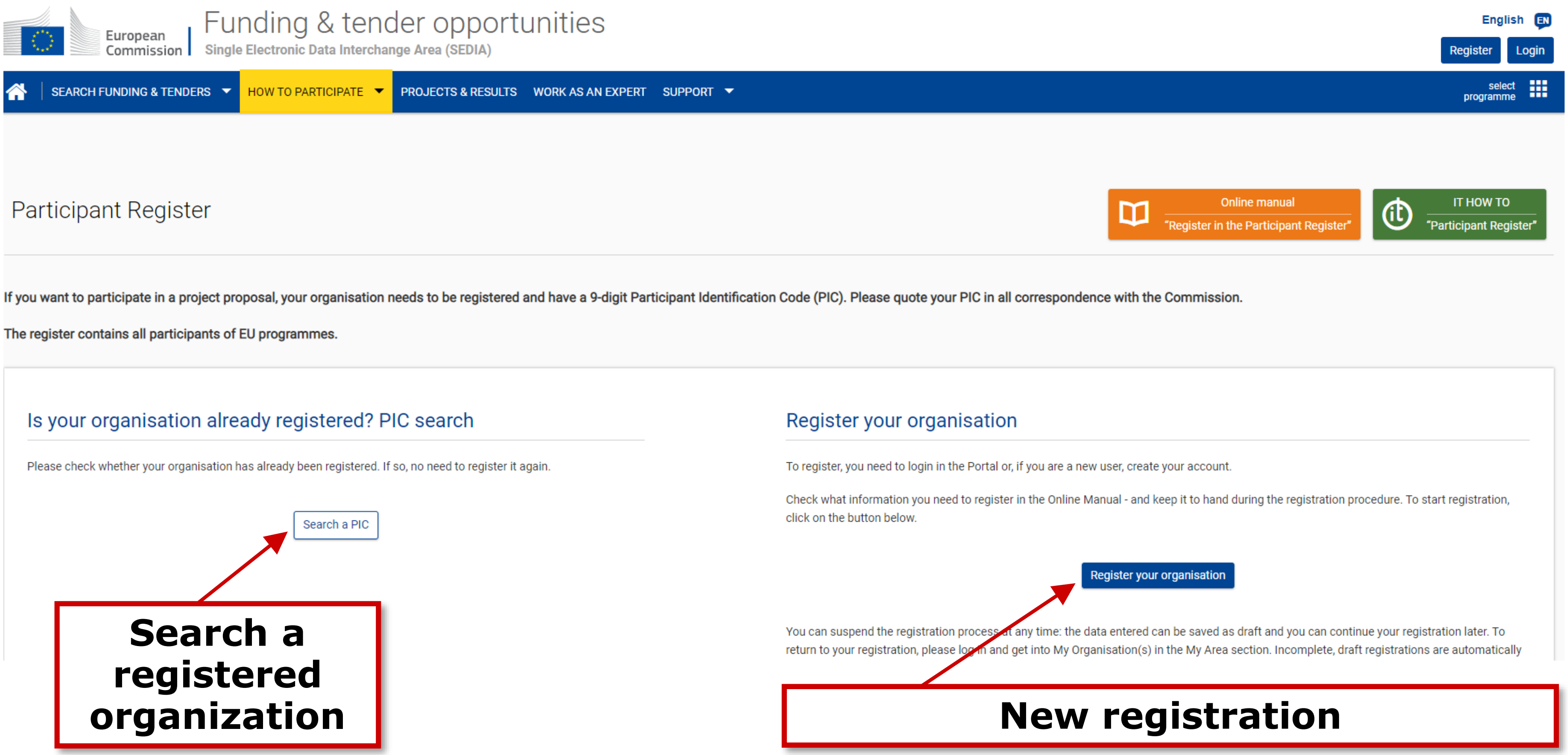
European Commission

European Commission
EUROPEAN ANTI-FRAUD OFFICE

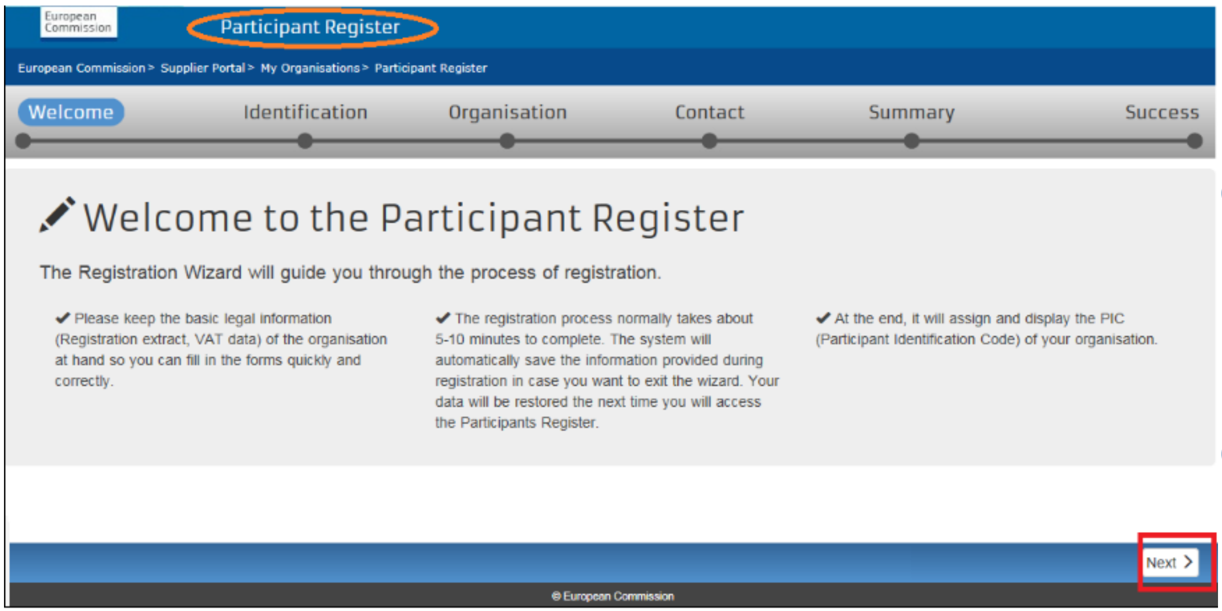
# Your organisation: legal status and financial capacity

Oct 2019

# Registration of an organization
## (at proposal stage)



# How to register a participant




Identification (duplicate check)

(e.g. Legal name, VAT number)

Organisation data

(e.g. Legal form, legal address)

Contact info

(e.g. Name, address, phone of the "self-registrant"

Registration completed

New Participant Identification Code (PIC) in a "declared" status

# Validation of a legal entity
## (before signature of a Grant Agreement or a Contract)

Initial data are entered during first registration and remain editable by the "**self-registrant**".
The self-registrant is also in charge of uploading all documents required for the validation in the EU Login area of the Funding and Tender Portal, via the *Modify Organisation/Documents* tab.
S/he can also assign other self-registrant roles via the *Manage roles* action.

If a proposal or a tender is successfully evaluated, the registered data will be verified by **REA Validation Services** before the signature of the Grant Agreement or Contract

# REA Validation Services (REA VS)

- Verifies **legal existence and legal status** of entities.
- Validates the appointment of Legal Entity Appointed Representatives (**LEAR**).
- Prepares the **Financial Capacity Assessment** for the RAO.
- Validates **legal changes** of validated entities requested by LEARs
- Performs ex-post status verifications (e.g. **SME checks**).
- Assesses **Universal Takeovers** of validated entities.
- Creates Legal Entities and **Bank Account Files** in cooperation with DG BUDG.

# Validation Rules

- **Legal Validation of a Participant** in the Single Electronic Data Interchange Area (SEDIA) **is done once**, when the entity has to sign its first contract or grant agreement; it is then used for future participations in EU grant and procurement actions.

- Validation is always performed **on the basis of supporting documents,** in accordance to EU Financial regulation and the Rules on Legal Entity Validation, LEAR Appointment and Financial Capacity Assessment for EU Grants and Tenders.

## Supporting documents

- ✓ **Official**: delivered by official national authorities. They can NOT be replaced by self-declarations or by sworn or solemn statements before a judicial or administrative authorities, notaries or public officers
- ✓ Certain documents (e.g. registration extract, VAT extract) must be **not older than 6 months**
- ✓ **Uploaded by the participant** (as scanned versions) via the Participant Register
- ✓ **In any of the official EU languages**. Free translation in English is required for non EU languages

# Legal Entity existence and independence

‘**Legal entity**’ means any natural or legal person created and recognised as such under national law or international law, that has legal personality and that may, acting in its own name, exercise rights and be subject to obligations.

If the organisation does **not** have **legal personality**, it is validated only if:

- ✓ has representatives who have the capacity to undertake legal obligations on its behalf and
- ✓ can offer guarantees for protecting the EU’s financial interests equivalent to those offered by legal persons

If the organisation does not have its own independent legal personality and does not meet the above criteria, it must use the PIC of the legal entity to which it is associated (e.g. University Department, Branch of a multinational company).

# Legal Status

Supporting documents define the legal status of the applicant.
Why is legal status important ?

- Programmes may have differences in terms of funding rates (e.g. **non-profit** entities)
- programmes/calls may establish specific eligibility criteria (e.g. **SME**)
- '**public bodies**', '**international organisations**' are by default exempted from the Financial Capacity Assessment.

## Non-profit organisations:

*"A legal entity which, by its legal form, is non-profit making AND/OR which has a statutory obligation not to distribute profits to its shareholders or individual members*

## "Research" organisation":

Two conditions have to be met:

- ✓ Entity must be non-profit. This status is verified by the REA VS
- ✓ Entity performs research activities. This status is based on a self-declaration (no legal documents required)

# SME status via the web-based SME self-assessment

*(no documents required)*

- The SME self-assessment IT tool is part of the Beneficiary Register
- REA VS carries out **ex-post checks*** of the SME status periodically and/or upon request of the operational services
- Entities that would like to participate in actions for which SME status is an eligibility criterion may request the REA VS to confirm the SME status (**SME validation***).

*In these cases, supporting documents are required (i.e. Balance Sheet, P&L, staff headcount)

# Legal Validation Documents

- ✓ **Legal entities form** (template to be completed, dated, stamped and signed)
- ✓ **VAT extract** (< 6 months)
  - ✓ *If not registered for VAT – **proof of VAT exemption***

- ✓ **Registration extract** (<6 months) – for private law bodies
- ✓ **Law/decree/decision** – for public law bodies
- ✓ **Treaty** – for international organisations
- ✓ **Statutes** – for non-profit organisations

# LEAR role

The LEAR appointment is mandatory.

The LEAR:

- Notifies the EU of changes in legal data/status;
- Submits legal and financial documents if required;
- Nominates 'Account Administrators' and individuals authorised to sign:
  - ✓ *Grant agreements and contracts and their amendments (Legal signatories i.e.* ***LSIGN****)*
  - ✓ *Financial statements (Financial signatories, i.e.* ***FSIGN****)*
- Informs own staff about the organisation's PIC

# LEAR appointment documents

1. LEAR appointment letter (duly signed by **both** the legal representative and the LEAR)
2. Declaration of Consent to the use and the terms of the Funding and Tenders Portal (duly signed by legal representative)
3. Official proof of identity (ID-card, passport, with photo and signature) of the legal representative and the LEAR
4. Proof of empowerment of the legal representative

**Scanned version of these documents shall be uploaded in the Participant Register.**

Originals of 1 and 2 must be kept in the entity's premises.

# LEAR appointment tips

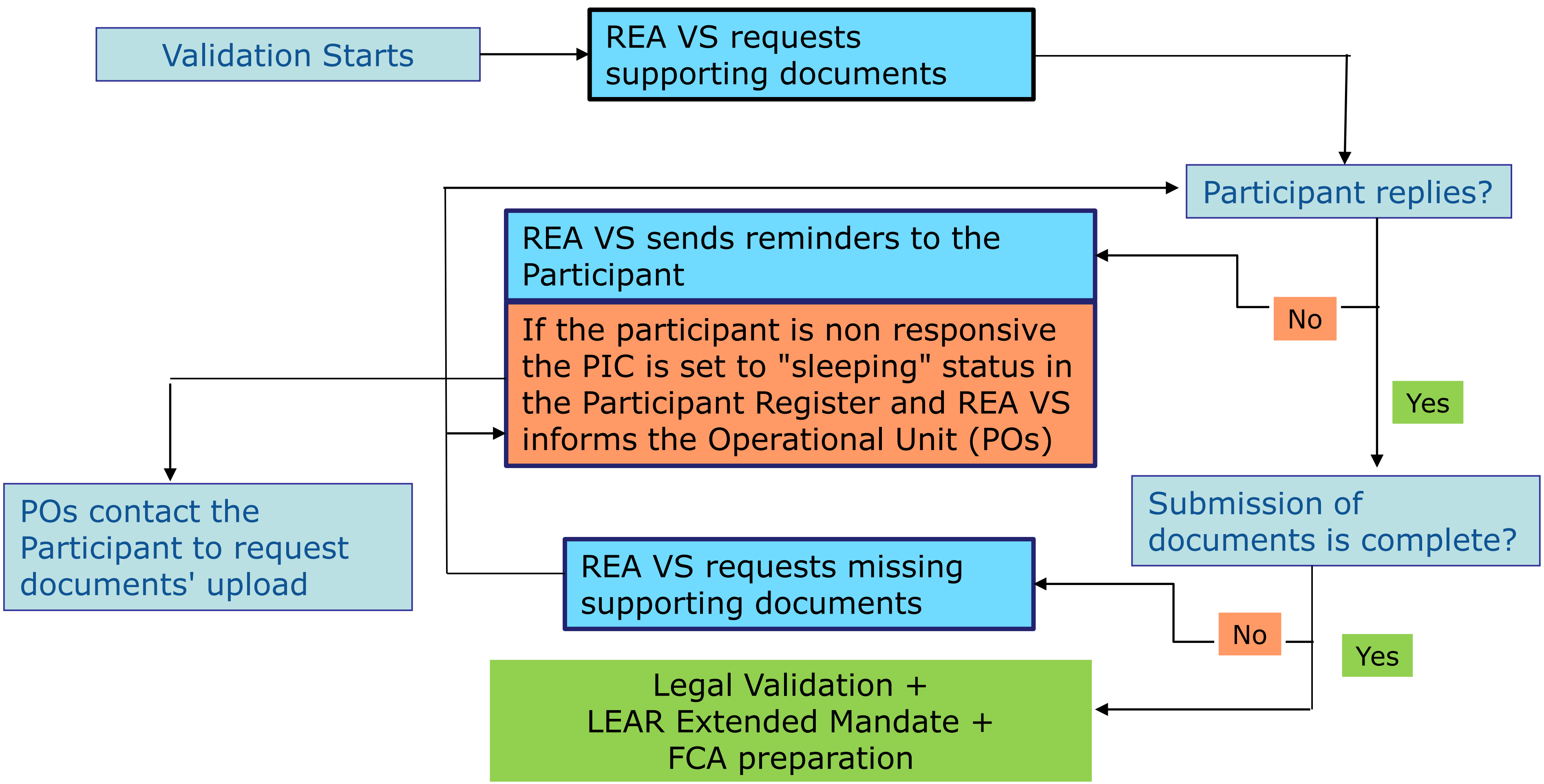
✓ The LEAR's EU Login account is linked to the PIC

- Name and email in the LEAR section shall match name and email address of the linked EU Login account
- New LEAR or new email = new EU Login account

✓ PIN code is sent by service-desk via postal mail

- Urgent request for PIN code: send an email to EC-SEDIA-SUPPORT@ec.europa.eu, OR
- Provide in the LEAR appointment form the mobile phone number of the LEAR, which will be used by the service-desk only to communicate the PIN code.

# Validation Services Workflows



# Financial Capacity Assessment

**Objective**: To evaluate if the participant has stable and sufficient sources of funding to implement their project/tender.

**Exception**: This requirement does not apply to public bodies.

The **supporting documents** are replaced by a declaration of honour for grants below or equal to EUR 60 000.

# FCA Supporting documents

## (for grants > 60000 EUR)

- ✓ Balance sheet
- ✓ Profit and loss account

**For the last 2 available financial years**
(dated and signed)

- ✓ Explanatory notes and/or annexes that form part of the above financial statements (if available).

- ✓ External audit report if requested EU-contribution exceeds € 750.000

Once completed, the assessment remains valid for 18 months

# FCA assessment

- A **self-check tool** available in the Funding and Tender Portal embeds the same calculations of the formal FCA. Those results are not binding for EU services and, if needed, a FCA will be performed by the REA VS against supporting documents.

- Final decision on the participation of an applicant with a 'weak' FCA result (based on the ratios) is taken by the EU services responsible for each individual project.

# Bank Accounts

- If needed, during the Grant Agreement Preparation, Participant can search for available bank account(s) in PPGMS. If no account exists, PPGMS displays an explanatory message on how to request the validation of a BA.

- Coordinator contact shall inform the LEAR to start BA entry request (upload of documents via the Participant Register).

- REA VS will launch BA entry creation and informs LEAR when the Bank Account File is completed

# Communication

**All communications** to -and from- participants is exclusively managed **through the Participant Register.**

Messages from the REA VS are also sent as email to the participant (to the Self-Registrant(s) or the LEAR for valid entities).

Please check the notifications in the EU Login area to follow-up REA VS requests.

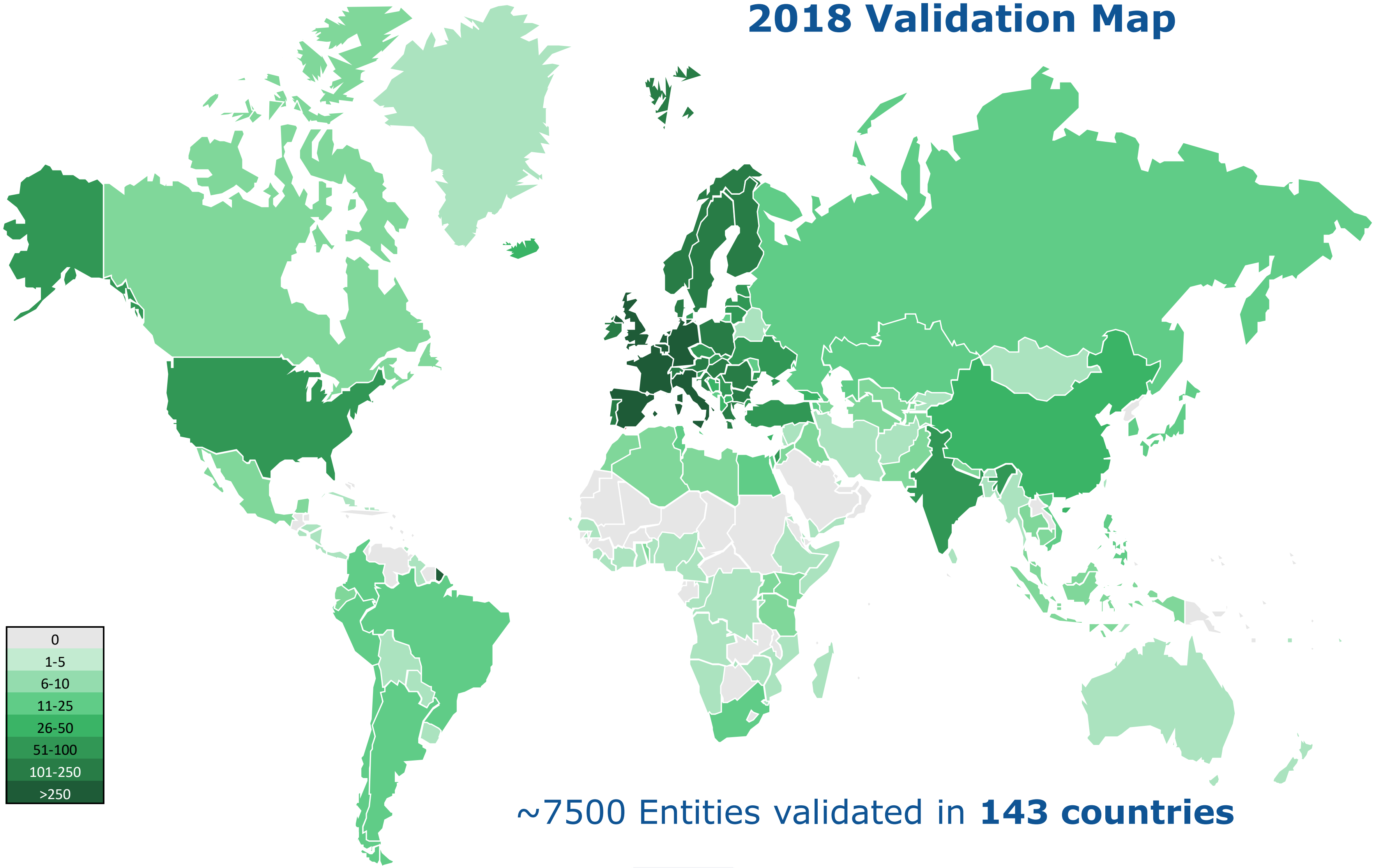
To reply, please select the *Modify Organisation/Messages* tab.

# Guidance Documents

- Rules on Legal Validation, LEAR appointment and financial capacity assessment
  **http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/lev/h2020-rules-lev-lear-fvc_en.pdf**

- Online Manual, IT How to, IT and RES Helpdesk and specific FAQs on the Funding and Tender Portal
  **https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/support/support**

# 2018 Validation Map




~7500 Entities validated in **143 countries**

# Thank you for your attention!