CONFINDUSTRIA ROMAGNA

CREDITO E FINANZA

Comunicazione FIN/5720 del 14/10/2020 ***a cura di Gianluca Gabellini***

Autorizzazione della Commissione Europea agli aiuti ex artt. 1 e 13 del DL Liquidità

Trasmettiamo in allegato le due decisioni della Commissione Europea con le quali **sono state autorizzate le misure previste dall'articolo 1 (Garanzia SACE) e dall'articolo 13 (Fondo di Garanzia per le PMI)** del DL 23/20, cosiddetto **DL Liquidità.**

Per ulteriori informazioni le Aziende interessate possono rivolgersi al Servizio Credito e Finanza Dott. Gianluca Gabellini – Tel 0541352323 – E-mail: ggabellini@confindustriaromagna.it .

All/ti

a) Decisione Commissione Art. 1 DL 23

b) Decisione Commissione Art. 13 DL 23

EUROPEAN COMMISSION

Brussels, 13.4.2020
C(2020) 2371 final

SENSITIVE[*]: *COMP Operations*

Subject: **State Aid SA. 56963 (2020/N) – Italy**
Guarantee scheme under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak

Excellency,

1. PROCEDURE

(1) By electronic notification of 9 April 2020, Italy notified aid in the form of a loan guarantee scheme ("the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("Temporary Framework").[1]

(2) The Italian authorities confirm that the notification does not contain confidential information.

(3) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958,[2] and to have this Decision adopted and notified in English.

[*] Handling instructions for SENSITIVE information are given at https://europa.eu/!db43PX

[1] Communication from the Commission - Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, adopted on 19 March 2020, C/2020/1863, OJ C 91I, 20.3.2020, p. 1-9, as modified by the Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, adopted on 3 April 2020, OJ C 112I , 4.4.2020, p.1-9.

[2] Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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2. DESCRIPTION OF THE MEASURE

(4) Italy considers that the COVID-19 outbreak is deeply affecting the real economy. The containment and contrast initiatives introduced to limit the spread of the disease[3] have led to a double negative shock: on the demand side, with the cancellation or postponement of spending decisions, and the elimination of tourist flows; on the supply side, with the closure of most commercial activities and the mandatory stop of most production activities. The main economic sectors that drive the Italian economy are in a standstill. The measure aims to preserve the continuity of economic activity during and after the outbreak. It is designed to ensure that the banking system provides enterprises, including large ones, with the necessary liquidity to overcome the current economic difficulties.

(5) The measure is expressly based on Article 107(3)(b) TFEU, as interpreted by Section 2 of the Temporary Framework.

2.1. The nature and form of aid

(6) The measure provides aid in the form of guarantees on loans.

2.2. National legal basis

(7) The legal basis for the measure is Article 1 of the Italian Decree Law n. 23 of 8 April 2020[4] ("Decree Law").

2.3. Administration of the measure

(8) The publicly owned and controlled SACE S.p.A. ("SACE") is responsible for administering the measure. The Italian Ministry of Finance provides counter-guarantees to SACE's obligations taken under the measure and may provide instructions to SACE in the administration of the measure.

2.4. Duration of the measure

(9) Aid may be granted under the measure as from its approval until 31 December 2020.

2.5. Beneficiaries

(10) The final beneficiaries of the measure are non-financial undertakings registered in Italy ("undertakings").These undertakings face a liquidity shortage with an ensuing undermined viability, due to the containment initiatives adopted by Italy.

(11) Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation

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[3] For example, decree law no. 6 of 23 February 2020, with further implementing provisions in the Decrees of the President of the Council of Ministers of 23 February 2020, 25 February 2020, 1 March 2020, 4 March 2020, 8 March 2020, 9 March 2020 and 11 March 2020.

[4] Published in the *Gazzetta Ufficiale* n.94 of 8 April 2020. The measure only becomes effective as of the adoption date of the present State aid decision

(“GBER”)[5], the Agricultural Block Exemption Regulation (“ABER”) and the Fisheries Block Exemption Regulation (“FIBER”) on 31 December 2019 and whose exposures with banks were not classified as non-performing[6] as of 29 February 2020.

(12) Aid is granted under the measure through financial intermediaries authorised to operate in Italy ("financial intermediaries"[7]).

2.6. Sectoral and regional scope of the measure

(13) The measure is open to all sectors and activities of the economy. However, financial intermediaries are excluded as final beneficiaries of the measure. It applies to the whole territory of Italy.

2.7. Basic elements of the measure

(14) The measure provides aid to the eligible beneficiaries in the form of guarantees, which are provided to the financial intermediaries in relation to new loans or refinancing of existing loans, granted after the entry into force of the Decree Law.

(15) The loans covered by the guarantees shall have the following features:

(a) The loans are working capital or investment loans, intended to finance business activities located in Italy.

(b) The maximum loans' maturity is set at six years. The undertakings can ask for a pre-amortisation, of up to 24 months. Such a pre-amortisation would consist of a grace period on the principle payments due by the undertakings to the financial intermediaries, for up to 24 months, therefore increasing the credit exposure of the financial intermediary toward the undertaking.

(c) The overall amount of loans per undertaking does not exceed the maximum of either:

– double the annual wage bill of the beneficiary for 2019, as resulting from the approved financial statements or from certified data, if the financial statement has not been approved yet. In the case of undertakings created after 31 December 2018, the maximum loan shall not exceed the estimated annual wage bill for the first two years in operation; or

– 25 percent of the total turnover of the beneficiary in 2019; as resulting from the approved financial statements or from certified data, if the financial statement has not been approved yet.

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5 As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

6 As defined by the Circolare n. 272, adopted on 30 July 2008 and modified thereafter.

7 Banks and entities authorized to lending activities.

(16) The guarantees shall have the following features:

(a) The guarantees are granted no later than on 31 December 2020.

(b) The guarantee premiums are paid by the undertakings and are determined as for the step-up schedule set out in Table 1 below.

Table 1: guarantee premiums

Type of beneficiary	For 1st year	For 2nd -3rd year	For 4th -6th year
SMEs[8]	25bps	50bps	100bps
Large enterprises	50bps	100bps	200bps

(c) The duration of the guarantees matches that of the loans and is limited to a maximum of six years.

(d) The coverage of the guarantees is as follows:

- 90% of the notional amount for firms with less than 5,000 employees in Italy and turnover up to EUR 1.5 billion;

- 80% of the notional amount for firms with more than 5,000 employees in Italy or turnover between EUR 1.5 and 5 billion;

- 70% of the notional amount for firms with turnover above EUR 5 billion;

(e) Losses are sustained proportionally. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally.

(f) The guarantee is irrevocable and executable on demand. It is triggered in case of undertaking's failure to repay the guaranteed loan.

(17) To be eligible for the guarantees, undertakings shall commit not to distribute dividends for the 12 months following the grant of the loan.

(18) The guarantees are granted upon request of the undertakings,

– Automatically and without discretion by SACE or the Italian authorities, if the undertakings have less than 5,000 employees and an annual turnover of less than EUR 1.5 billion;

– following an assessment of the Italian Ministry of Finance, which considers the relevance of the undertaking for the Italian economy, if the undertakings exceed any of these ceilings.

(19) The financial intermediaries can charge commissions related to the guaranteed loans that do not exceed the envisaged costs. For new loans, the financial intermediaries commit to apply interest rates (i.e. cost of financing) that are lower than the interest rate that they would have applied in the absence of the guarantee.

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8 As defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, 2003/361/EC, OJ L 124/36, 20.05.2013.

For refinancing loans, the financial intermediaries commit to apply interest rates (i.e. cost of financing) that fully reflect the improvement of the borrower's credit worthiness as resulting from the guarantee.

2.8. Cumulation

(20) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.

(21) The Italian authorities confirmed that aid granted under Section 3.2 of the Temporary Framework will not be cumulated with other aid granted for the same underlying loan principal under Section 3.3 of the Temporary Framework, and vice versa.

(22) Aid under the measure may be cumulated with other compatible aid and de minimis aid, provided the cumulation rules under the different de minimis Regulations are respected, or with other forms of Union financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemptions Regulations are respected.

(23) In case aid under the measure is cumulated with other aid granted under this measure or under another measure authorised under the Temporary Framework by the same competent granting authority or by another one, the maximum aid amounts per beneficiary established in the Temporary Framework and/or the maximum ceilings on loans per beneficiary specified in points 25(d) and 27(d) of the Temporary Framework will be respected for each undertaking.

2.9. Monitoring and reporting

(24) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (e.g., by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.).

3. ASSESSMENT

3.1. Lawfulness of the measure

(25) By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU. Although already in force, the measure in the Decree Law is not implemented until approval by the Commission.

3.2. Existence of State aid

(26) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(27) The measure is imputable to the State, since it is administered by SACE, which is controlled by the Italian State and is based on the legislative act mentioned in recital (7). It is financed through State resources, since it is financed by public funds.

(28) The measure confers an advantage on its beneficiaries in the form of guarantees on loans (recital (6)). The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.

(29) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, registered in Italy, in particular excluding financial institutions, and subject to certain conditions as specified in Section 2.5.

(30) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(31) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

(32) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(33) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(34) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that "*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*". The Commission concluded that "*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*".

(35) The measure aims at facilitating the access of firms to external finance at a time when the COVID-19 containment initiatives by Italy have an impact on the liquidity situation of undertakings, thereby threatening their respective viability. The Commission acknowledges that the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(36) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending by private banks to enterprises during the COVID-19 outbreak is widely accepted by economic commentators and the measure is of a scale, which can be reasonably anticipated to produce effects across the entire Italian economy. Furthermore, the measure has been

designed to meet the requirements of a specific category of aid ("Aid in the form of guarantees on loans") described in Section 3.2 of the Temporary Framework and the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

(37) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The measure sets minimum levels for guarantee premiums. The price structure of the measure consists of the fees described in recital (16)(b). The remuneration of the guarantees under the measure thus complies with point 25(a) of the Temporary Framework.

- Guarantees can be granted under the measure by 31 December 2020 at the latest (recital (16)(a)). The measure therefore complies with point 25(c) of the Temporary Framework.

- The maximum loan amount per beneficiary covered by guarantees granted under the measure is described in recital (15)(c). The limits are in line with point 25(d) of the Temporary Framework.

- The measure limits the duration of the guarantees to a maximum of six years (recital (16)(c)). Those guarantees cover 90% of or less than the loan principal (recital (16)(d)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (16)(e)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to working capital and investment loans (recital (15)(a)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Firms already in difficulty on 31 December 2019 within the meaning of the GBER, the ABER and the FIBER are excluded from benefitting from the measure (recital (11)). The measure therefore complies with point 25(h) of the Temporary Framework.

- The mobilisation of the guarantees, in accordance with the Decree Law, is attached to the failure to repay the guaranteed loans (recital (16)(f)) and is therefore the same for all beneficiary undertakings and, thus, known and accepted by all participating financial intermediaries.

- The measure introduces safeguards in relation to the possible indirect aid in favour of the financial intermediaries to limit undue distortions to competition, as described in recital (19). More specifically, the Commission takes into account the fact that all financial intermediaries authorised to operate in Italy have, in principle, access to the guarantee scheme (recital (12)), creating competition between them. With regard to new loans, the Commission observes that the interest rates applied by the financial intermediaries will have to be lower than those applicable on similar loans without the guarantees; as the undertakings are free to compare the offers from different financial institutions and select the most advantageous one, the Commission considers that the competition should in principle allow the undertakings to benefit in full from the guarantee. With regard to refinancing loans, for which competition is instead limited, the financial intermediaries are obliged to fully reflect the improved risk profile of the undertaking as resulting from the guarantees. The Commission also notes that financial intermediaries can charge commissions that are not higher than the envisaged costs. Finally, the Commission notices that the undertakings can ask for a pre-amortisation of up to 24 months, which increases the risks taken by the financial intermediaries. Such safeguards ensure that the financial institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. The measure therefore complies with points 28 to 31 of the Temporary Framework.

- The applicable cumulation rules are respected (recitals (20) to (23)).

- The Italian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (24)).

4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014

(38) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (“BRRD”)[9] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (“SRMR”),[10] in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of BRRD and of SRMR.

(39) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.[11] Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.

(40) Moreover, as indicated in recital (37) above, the measure introduces safeguards in relation to any possible indirect aid in favour of the credit institutions or other

9 OJ L 173, 12.6.2014, p. 190-348.

10 OJ L 225, 30.7.2014, p. 1-90.

11 Points 6 and 29 of the Temporary Framework.

financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantages provided by the measure to the final beneficiaries.

(41) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD and of SRMR.

5. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION

EUROPEAN COMMISSION

Brussels, 13.4.2020
C(2020) 2370 final

SENSITIVE[*]: *COMP Operations*

Subject: **State Aid SA. 56966 (2020/N) – Italy**
COVID-19: Loan guarantee schemes under the *Fondo di garanzia per le PMI*

Excellency,

1. PROCEDURE

(1) By electronic notification of 10 April 2020, Italy notified aid in the form of guarantees on loans and grants covering the value of the guarantee premiums ("the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework").[1]

(2) The Italian authorities confirm that the notification does not contain confidential information.

(3) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958,[2] and to have this Decision adopted and notified in English.

[*] Handling instructions for SENSITIVE information are given at https://europa.eu/!db43PX

[1] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, adopted on 19 March 2020, C/2020/1863, OJ C 91I, 20.3.2020, p. 1-9., as modified by the Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, adopted on 3 April 2020, OJ C 112I , 4.4.2020, p.1-9.

[2] Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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2. DESCRIPTION OF THE MEASURE

(4) Italy considers that the COVID-19 outbreak is deeply affecting the real economy. The containment and contrast initiatives[3] introduced to limit the spread of the disease have led to a double negative shock: on the demand side, with the cancellation or postponement of spending decisions, and the elimination of tourist flows; on the supply side, with the closure of most commercial activities and the mandatory stop of most production activities. The main economic sectors that drive the Italian economy are in a standstill. The measure aims to preserve the continuity of economic activity during and after the outbreak. It is designed to ensure that the banking system provides enterprises - micro, small and medium ones in particular - with the necessary liquidity to overcome the current economic difficulties.

(5) The measure is expressly based on Article 107(3)(b) TFEU, as interpreted by Section 2 of the Temporary Framework.

2.1. The nature and form of aid

(6) The measure provides aid in the form of guarantees on loans and grants covering the value of the premiums on those guarantees.

2.2. National legal basis

(7) The legal basis for the measure is Article 13, paragraphs 1 and 2 of the Italian Decree Law n. 23 of 8 April 2020[4] (the "Decree Law").

2.3. Administration of the measure

(8) The Italian Ministry of Economic Development is responsible for granting the measure. The measure will be administered by the Central Guarantee Fund for SMEs[5] (the “Guarantee Fund”), a public instrument under the supervision of the Ministry for Economic Development and the Ministry of Economy and Finance.

2.4. Budget and duration of the measure

(9) According to the Italian Authorities, the initial budget estimated by Italy under Article 13 paragraph 10 of the Decree Law amounts to EUR 1 729 million. Additional resources may be made available in the event of co-financing by other administrations, including the European Regional Development Fund.

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[3] For example, decree law no. 6 of 23 February 2020, with further implementing provisions in the Decrees of the President of the Council of Ministers of 23 February 2020, 25 February 2020, 1 March 2020, 4 March 2020, 8 March 2020, 9 March 2020 and 11 March 2020.

[4] Published in the *Gazzetta Ufficiale* n. 94 of 8 April 2020. The measure only becomes effective as of the adoption date of the present State aid decision.

[5] “*Fondo di garanzia per le PMI*”, as established by Article 2(100) of the Italian Law n. 662 of 23 December 1996.

(10) Aid may be granted under the measure as from its first implementation until December 31, 2020.

2.5. Beneficiaries

(11) The beneficiaries of the measure are all undertakings with up to 499[6] employees and self-employed persons operating in Italy. They face a liquidity shortage, due to the containment initiatives adopted by Italy.

(12) Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation ("GBER"),[7] the Agricultural Block Exemption Regulation ("ABER")[8] and the Fisheries Block Exemption Regulation ("FIBER")[9] on 31 December 2019.

(13) Aid is granted under the measure through either credit institutions or other financial institutions authorised to operate in Italy (the "financial intermediaries"[10]).

2.6. Sectoral and regional scope of the measure

(14) The measure is open to all sectors and activities of the economy. However, financial intermediaries are excluded as eligible beneficiaries. It applies to the whole territory of Italy.

2.7. Basic elements of the measure

(15) The measure provides aid to the eligible beneficiaries in the form of (a) guarantees under Section 3.2 of the Temporary Framework, (b) guarantees under Section 3.1 of the Temporary Framework, and (c) grants under Section 3.1 of the Temporary Framework. The three elements of this measure are described below.

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6 These undertakings do not meet the definition of SMEs, as provided by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, 2003/361/EC, OJ L 124/36, 20.05.2013.

7 As defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

8 Article 2(14) of the Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193 of 1.7.2014, p.1.

9 Article 3(5) of the Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369 of 24 December 2014, p. 37.

10 Banks and entities authorized to lending activities.

2.7.1. Guarantees under Section 3.2 of the Temporary Framework

(16) The guarantees under Section 3.2 of the Temporary Framework are provided to the financial intermediaries, banks and mutual guarantee institutions[11], in relation to new and existing loans.

(17) The loans covered by the guarantees shall have the following features:

(a) The loans are working capital or investment loans;

(b) The loans can be granted no earlier than three months before the request for the guarantee and, in any event, not earlier than 31 January 2020, or restructured after the adoption the Decree Law regardless of the time of the grant;

(c) The maximum loans' maturity is set at six years;

(d) The amount of the loan per undertaking does not exceed whichever of the following is the highest:

– double the annual wage bill of the beneficiary for 2019, as resulting from the approved financial statements or from certified data, if the financial statement has not been approved yet. In the case of undertakings created after 31 December 2018, the maximum loan shall not exceed the estimated annual wage bill for the first two years in operation;

– 25% of the total turnover of the beneficiary in 2019; as resulting from the approved financial statements or from data which are self-certified by the beneficiary, if the financial statement has not been approved yet; or

– For undertakings whose turnover or wage bill of 2019 is not a good proxy to forecast their expenses in next months, [12] as assessed on a case-by-case basis by the Italian authorities, and based on self-certification by and with appropriate justification from the beneficiary, the amount of the loan may be increased to cover the liquidity needs from the moment of granting, for the coming 18 months for SMEs and for the coming 12 months for large enterprises. The submissions of the beneficiaries will be verified during the application.

(18) The guarantees shall have the following features:

(a) The guarantees are granted no later than on 31 December 2020;

(b) The maximum guaranteed amount cannot exceed EUR 5 million;

(c) The guarantee premiums are paid by the undertakings and are determined as set out in Table 1 below.

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[11] An example of such mutual guarantee institutions are the "confidi", regulated by law n. 326 of 24 November 2003 and authorised to operate after registration under Article 4 of *Provvedimento della Banca d'Italia*, 14 May 2009.

[12] E.g. the beneficiary is a new enterprise or an early stage enterprise, the undertaking has incurred higher costs than under normal circumstances, due to the COVID-19 outbreak, or it needs higher liquidity to restart its business, after the suspension of industrial and commercial production activities.

Table 1: guarantee premiums

Type of beneficiary	For 1st year	For 2nd -3rd year	For 4th -6th year
SMEs[13]	25bps	50bps	100bps
Large enterprises	50bps	100bps	200bps

(d) The duration of the guarantees matches that of the loans and is limited to a maximum of six years;

(e) The coverage of the guarantees is as follows:

– At the level of the single loans,

  • 90% of the notional amount for new loans and loans that have been granted no earlier than three months before the request for the guarantee and, in any event, after 31 January 2020;

  • 80% of the notional amount for other existing loans that are restructured.

– At the level of the loans' portfolio of each individual financial intermediary, additional constraints will be defined, according to the average probability of default of the beneficiaries, if the portfolio is composed of at least 20% of undertakings whose credit rating, as determined on the basis of the banks' internal model, is not higher than "BB", as defined by the credit rating agency Standard and Poor's.

(f) Losses are sustained proportionally by the financial intermediary and the guarantor. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally;

(g) The guarantee is irrevocable and executable on demand. The conditions for mobilising the guarantees are defined in a Decree issued by the Ministry of Economic Development on 12 February 2019[14]. These conditions are known and accepted by the financial intermediaries, banks and mutual guarantee institutions when the guarantee is initially granted.

(19) The guarantees are granted upon request of the undertakings. The measure contains safeguards to ensure that the aid reaches the undertakings. The financial intermediaries have to declare the way they will pass on the advantage of the guarantee to the undertakings, which are the actual beneficiaries. The advantage

[13] As defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, 2003/361/EC, OJ L 124/36, 20.05.2013.

[14] https://www.mise.gov.it/index.php/it/normativa/decreti-ministeriali/2039228-decreto-ministeriale-12-febbraio-2019-approvazione-delle-condizioni-di-ammissibilita-e-delle-disposizioni-di-carattere-generale-relative-alle-nuove-modalita-di-valutazione-delle-imprese-ai-fini-dell-accesso-al-fondo-di-garanzia-per-le-pmi-e-articolazione-delle-misure-di-garanzia.

is communicated to the actual beneficiary when the guarantee is granted. In particular,

(a) For the undertakings to benefit from the guarantee by the Guarantee Fund on existing loans, financial intermediaries that have granted these loans should either restructure these loans in a way that results in at least 10% additional refinancing or lower the charged interest rate to take into account the guaranteed profile;

(b) To benefit from the guarantee by the Guarantee Fund, mutual guarantee institutions should provide their guarantee for a fee that covers only their administrative costs.

2.7.2. Guarantees under Section 3.1 of the Temporary Framework

(20) The guarantees under Section 3.1 of the Temporary Framework are provided to financial intermediaries, banks and mutual guarantee institutions[15], in relation to new loans.

(21) The loans covered by the guarantees shall have the following features:

(a) The loans have a grace period of 24 months;

(b) The maximum loans' maturity is set at six years;

(c) The amount of the loan per undertaking does not exceed the following ceilings:

- EUR 100 000 per undertaking active in the fishery and aquaculture sector;
- EUR 120 000 per undertaking active in the primary production of agricultural products;
- EUR 800 000 per undertaking active in all other sectors.

(22) The guarantees shall have the following features:

(a) The guarantees are granted no later than on 31 December 2020;

(b) The guarantee premiums are zero;

(c) The duration of the guarantees matches that of the loans and is limited to a maximum of six years;

(d) The coverage of the guarantees is 100% of the notional amount for loans;

(e) The guarantee is irrevocable and executable on demand. The conditions for mobilising the guarantees are defined in a Decree issued by the Ministry of Economic Development on 12 February 2019[16]. These conditions are known and accepted by the financial intermediaries, banks and mutual guarantee institutions when the guarantee is initially granted.

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[15] See footnote 11.

[16] See footnote 14.

(23) The guarantees are granted upon request of the undertakings. The measure contains the following safeguards to ensure that the aid reaches the undertakings, which are the actual beneficiaries:

(a) For the undertakings to benefit from the guarantee, financial intermediaries cannot charge an interest rate that is higher than the sum of (i) the Italian government bond yield[17], (ii) the difference between the 5 years CDS premium of the Italian banks and the 5 years CDS premium of the Italian Republic, and (iii) 20 bps;

(b) To benefit from the guarantee, mutual guarantee institutions should provide their guarantee for a fee that covers administrative costs only.

2.7.3. Grants under Section 3.1 of the Temporary Framework

(24) The Guarantee Fund provides the undertakings that benefit from guarantees on loans, as described in Section 2.7.1, with a grant equal to the present value of the fees due under the guarantee. In any case the amount of the grant cannot exceed the following ceilings:

(a) EUR 100 000 per undertaking active in the fishery and aquaculture sector;

(b) EUR 120 000 per undertaking active in the primary production of agricultural products;

(c) EUR 800 000 per undertaking active in all other sectors.

(25) The present value of the fees are calculated on a yearly basis on the guaranteed amount of the residual debt of the loan, applying the premiums shown in Table 1, discounted to the date the guarantee is granted, using the discount rate calculated in accordance with the 2008 Communication from the Commission on the revision of the method for setting the reference and discount rates[18].

2.8. Cumulation

(26) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.

(27) The above-mentioned aid granted under Section 3.1 of the Temporary Framework (Sections 2.7.2 and 2.7.3) may be cumulated with aid granted under Section 3.2.

(28) The Italian authorities confirmed that aid granted under Section 3.2 of the Temporary Framework will not be cumulated with other aid granted for the same underlying loan principal under Section 3.3 of the Temporary Framework, and vice versa.

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17 The Bank of Italy produces and publishes the Rendistato index, which is the weighted average yield on a basket of government securities. The outstanding maturities of the Rendistato used for this calculation are between 4 years and 7 months and 6 years and 6 months.

18 Communication from the Commission on the revision of the method for setting the reference and discount rates, OJ C 14, 19.1.2008, p. 6–9.

(29) Aid under this measure may be cumulated with other compatible aid and de minimis aid, provided the cumulation rules under the different de minimis Regulations are respected, or with other forms of Union financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemptions Regulations are respected.

(30) In case aid under this measure is cumulated with other aid granted under this measure or under another measure authorised under the Temporary Framework, by the same competent granting authority or by another one, the maximum aid amounts per beneficiary established in the Temporary Framework and/or the maximum ceilings on loans per beneficiary specified in points 25(d) and 27(d) of the Temporary Framework will be respected for each undertaking.

2.9. Monitoring and reporting

(31) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (e.g., by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid).

3. ASSESSMENT

3.1. Lawfulness of the measure

(32) By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU. The Commission notes that Article 13 of the Decree Law entered into force on 9 April 2020 but contains provisions that make the implementation of the measure conditional upon the approval of the Commission.

3.2. Existence of State aid

(33) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(34) The measure is imputable to the State, since it is based on the legislative act mentioned in recital (7) and it is administered by the Guarantee Fund, which is a public instrument under the supervision of the Italian Ministry for Economic Development and the Italian Ministry of Economy and Finance. It is financed through State resources, since it is financed by public funds.

(35) The measure confers an advantage on its beneficiaries in the form of guarantees on loans and direct grants (recital (6)). The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.

(36) The advantage granted by the measure is selective, since it is awarded only to undertakings with up to 499 employees and self-employed persons operating in Italy, and financial institutions are excluded as actual beneficiaries of the aid (Section 2.5).

(37) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(38) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

(39) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(40) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(41) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that "*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*". The Commission concluded that "*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*".

(42) The measure aims at facilitating the access of firms to external finance at a time when the COVID-19 containment initiatives by Italy have an impact on the liquidity situation of undertakings, thereby threatening their respective viability. The Commission acknowledges that the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(43) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending by private banks to enterprises during the COVID-19 outbreak is widely accepted by economic commentators and the measure is of a scale, which can be reasonably anticipated to produce effects across the entire Italian economy. Furthermore, the measure has been designed to meet the requirements of two specific categories of aid, namely "Aid in form of direct grants, repayable advances or tax advantages" described in Section 3.1 of the Temporary Framework and "Aid in the form of guarantees on loans" described in Section 3.2 of the Temporary Framework as well as the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

(44) The elements of the notified measure described in Sections 2.7.2 and 2.7.3 above, meet all the applicable conditions provided for by the Section 3.1 of the Temporary Framework:

- The aid will be granted in the form of direct grants or guarantees on loans (recital (15)), as laid down in paragraph 22(a) of the Temporary Framework.

- The maximum aid amount per undertaking will not exceed the overall cap of EUR 800 000 (before deduction of tax or other charges) (recitals (21)(c) and (24)(c)), as laid down in paragraph 22(a) of the Temporary Framework.

- For undertakings that are active in the (i) fishery and aquaculture sector, and in the (ii) primary production of agricultural products, the maximum aid amount per undertaking does not exceed EUR 120 000 (recitals (21)(c) and (24)(b)) and EUR 100 000 (recitals (21)(c) and (24)(a)), respectively, as laid down in paragraph 23(a) of the Temporary Framework.

- The estimated budget of the measure is indicatively provided by Italy (recital (9)). Therefore, the condition of paragraph 22(b) of the Temporary Framework is considered to be met.

- In compliance with paragraph 22(c) of the Temporary Framework, the aid will only be granted to undertakings, which were not already in difficulty on 31 December 2019 (recital (12)).

- The aid will be granted no later than 31 December 2020 (recital (10)); hence the condition set out in paragraph 22(d) of the Temporary Framework is met.

- As the aid is granted in the form of guarantees on loans or grants to cover the costs of guarantees on loans (recital (15)), aid granted to undertakings active in the processing and marketing of agricultural products is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned. Moreover, the Italian authorities have confirmed that the aid will be conditional on not being partly or entirely passed on to primary producers. Hence, the condition set out in paragraphs 22(e) and 23 (b) of the Temporary Framework is met.

- As the aid is granted in the form of guarantees on loans or grants to cover the costs of guarantees on loans (recital (15)), aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k), of Commission Regulation (EU) No 717/2014, as laid down in paragraph 23(c) of the Temporary Framework.

- The Italian authorities confirm that, where an undertaking is active in several sectors, to which different maximum amounts apply in accordance with points 22(a) and 23(a), they will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities, as laid down in paragraph 23*bis* of the Temporary Framework.

(45) The elements of the notified measure described in Section 2.7.1 above meet all the applicable conditions provided for by the Section 3.2 of the Temporary Framework:

- The measure sets minimum levels for guarantee premiums, described in recital (18)(c), in line with the guidance in paragraph 25(a) of the Temporary Framework. The measure therefore complies with paragraph 25(a) of the Temporary Framework.

- Guarantees can be granted under the measure by 31 December 2020 at the latest (recital (18)(a)). The measure therefore complies with paragraph 25(c) of the Temporary Framework.

- The maximum loan amount per beneficiary covered by guarantees granted under the measure is described in recital (17)(d). The limits are in line with paragraph 25(d) of the Temporary Framework. Specifically, given that the cases where the overall amount of loans per beneficiary exceeds the ceilings of point 25(d), i. and ii. of the Temporary Framework are properly justified, the Commission considers the corresponding aid to be proportionate, since it includes a maximum ceiling linked to the actual liquidity needs of the beneficiary, which the aid granting authority are able to verify, from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises. The beneficiaries are SMEs or undertakings with up to 499 employees and self-employed persons, that generally face greater challenges in receiving finance than larger undertakings, even in normal times.

- The measure limits the duration of the guarantees to a maximum of six years (recital (18)(d)). Those guarantees cover 90% of or less than the loan principal (recital (18)(e)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (18)(f). The measure therefore complies with paragraph 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to working capital and investment loans (recital (17)(a)). The measure therefore complies with paragraph 25(g) of the Temporary Framework.

- Firms already in difficulty on 31 December 2019 within the meaning of the GBER, ABER and FIBER are excluded from benefitting from the measure (recital (12)). The measure therefore complies with paragraph 25(h) of the Temporary Framework.

- The mobilisation of the guarantees is linked to specific conditions which have been defined in a Decree issued by the Ministry of Economic Development (recital (18)(g)). These conditions are known and accepted by the financial intermediaries, banks and mutual guarantee institutions when the guarantee is initially granted.

(46) The elements of the notified measure described in Sections 2.7.1 and 2.7.2 above meet all the applicable conditions provided for by the Section 3.4 of the Temporary Framework:

- The measure introduces safeguards in relation to the possible indirect advantage in favour of the financial intermediaries to limit undue distortions to competition, as described in recitals (19) and (23). More specifically,

  - With regard to the financial intermediaries that grant the loans, the Commission takes into account the fact that all financial intermediaries authorised to operate in Italy have, in principle, access to the guarantee scheme (recital (13)), creating competition between the banks. With regard to new loans, whereby the undertakings are free to compare the offers from different financial institutions and select the most advantageous one, the Commission considers that the competition should in principle allow the undertakings to benefit in full from the guarantee. Moreover, the Commission notes that in the specific case of guarantees on new loans granted for 100% of their notional, additional safeguards exist, as the interest rate is defined through a mechanism that ensures that the banks do not charge more than their own estimated funding costs with a margin of 20bps, and the loans have a grace period of 24 months. With regard to existing loans, for which competition is instead limited, the financial intermediaries are obliged to lower the interest rate charged to the undertakings or to restructure the loan so as to ensure at least 10% additional financing to the undertakings. The advantage is communicated to the actual beneficiary when the guarantee is granted.

  - With regard to the mutual guarantee institutions that may provide guarantees on the commercial loans and benefit from the counter-guarantee from the Guarantee Fund, the Commission notes that these financial intermediaries can only charge commissions that cover administrative costs. They cannot receive any remuneration for the guarantees on which they provide form the counter-guarantees.

- Such safeguards ensure that the financial institutions, to the largest extent possible, pass on the advantage of the measure to the actual beneficiaries. The measure therefore complies with points 28 to 31 of the Temporary Framework.

(47) The applicable cumulation rules are respected (recitals (26) to (30)).

(48) The Italian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (31)).

(49) In conclusion, the Commission considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the applicable conditions of the Temporary Framework.

4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014

(50) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution ("BRRD")[19] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism ("SRMR"),[20] in the event that an institution benefiting from the measure meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measure does not appear to violate intrinsically linked provisions of BRRD and of SRMR.

(51) In particular, aid granted by Member States to non-financial undertakings as beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.[21] Nevertheless, any such indirect advantage granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.

(52) Moreover, as indicated in recital (46) above, the measure introduces safeguards in relation to any possible indirect advantage in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantage provided by the measure to the actual beneficiaries.

(53) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD and of SRMR.

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[19] OJ L 173, 12.6.2014, p. 190-348.

[20] OJ L 225, 30.7.2014, p. 1-90.

[21] Points 6 and 29 of the Temporary Framework.

5. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION