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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 disease³ 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 2020⁴ ("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

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-performing⁶ 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.

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 1 st year	For 2 nd -3 rd year	For 4 th -6 th 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.

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,

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