EUROPEAN COMMISSION

Brussels,
C(2009)

PUBLIC VERSION

WORKING LANGUAGE

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Subject: **State aid N 266/2009 – Italy**
Temporary aid scheme for granting aid in the form of guarantees

Sir,

1. PROCEDURE

(1) By electronic notification of 4 May 2009, Italy notified a guarantee scheme under the "Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis" (hereinafter referred to as the "Temporary framework")[1]. By electronic communication of 14 May 2009 the Italian authorities submitted further information as requested by the Commission services on 8 May 2009.

1 Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, OJ C 83 of 7 April 2009.

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2. DESCRIPTION

2.1. Objective of the aid scheme

(2) The Italian authorities consider that the financial crisis starts affecting the real economy. Moreover, they underline that the recent earthquake in region Abruzzo has complicated the crisis scenario. According to the Italian Office of Statistics[2], the GDP of Italy decreased by 2.9% in the last quarter of 2008 compared to the previous quarter. As for the GDP forecast of 2009, the Italian authorities refer to the International Monetary Fund[3] which predicts a slump of the Italian GDP by 4.45%. This data for 2009 is confirmed by the Commission's country forecast[4], with the Italian real GDP projected to fall by 4.4%. The Industrial Production Index fell by 19.2% for the period January-February 2009 compared to the same period of 2008. Already in the last quarter of 2008 the decrease was of 10.2% compared to the previous period. This trend is confirmed by the data for January (-17.6%) and February 2009 (-20.7%). Investments in fixed assets decreased in the last quarter of 2008 by 6.9% compared to the previous quarter. As for labour market data[5], the Italian authorities refer in particular to the extensive use of the Cassa Integrazione Guadagni (CIG), the national redundancy fund system, which increased by 184.1% (number of hours) in the first quarter of 2009 compared to the same period of 2008. In addition, data of the Bank of Italy[6] show a reduction of credit to enterprises by 3.5% in the first quarter of 2009, compared to the last quarter of 2008.

(3) The notified measure forms part of an overall package of measures[7] that the Italian authorities are putting in place in order to remedy the serious disturbance in the Italian economy resulting from the current crisis and aims at improving the access of firms to investment and working capital loans in order to compensate for the insufficient loan activity by private banks resulting from the financial crisis.

(4) The scheme is explicitly based on Article 87(3)(b) EC Treaty, and relies on point 4.3.2 of the Commission communication "Temporary framework for State aid measures to support access to finance in the current financial and economic crisis"[8] (hereinafter referred to as “Temporary Framework”).

2.2. The nature and form of the aid

(5) The aid will be provided in the form of subsidised guarantees for investment and working capital loans.

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2 Statistical data available on the website www.istat.it of the Italian Office of Statistics (ISTAT)

3 Data available on the website www.imf.org of the International Monetary Fund.

4 European Commission, Economic Forecast Spring 2009, published on 4 May 2009.

5 Statistical data available on the website www.inps.it of the National Social Security Agency (INPS).

6 Information published by Banca d'Italia in the Economic Bulletin n. 56/2009 of April 2009, available on the website www.bancaditalia.it

7 Notified measures under assessment by the Commission: N 248/2009 (Limited amounts of compatible aid), N 267/2009 (Aid for the production of green products), N 268/2009 (Aid in the form of loans with subsidised interest rate) and N 276/2009 (Risk capital measures).

8 Consolidated text of the Commission communication published in the OJ C83 of 7.4.2009, p. 1.

2.3. Legal basis

(6) The legal basis for the scheme is the national implementing directive "Modalità di applicazione della comunicazione della Commissione europea – Quadro di riferimento temporaneo comunitario per le misure di aiuto di Stato a sostegno dell'accesso al finanziamento nell'attuale situazione di crisi finanziaria ed economica" (Articles 1, 2, 4, 8, 9 and 10) which will be applied by national, regional and local authorities via existing legislation.

(7) The scheme will enter into force upon its approval by the Commission.

2.4. Administration of the scheme

(8) The notified scheme is a national framework directive, allowing aid to be granted at national, regional and local level, and is applied in a decentralised way by all relevant aid awarding authorities. The administration of the scheme is coordinated by the Presidency of the Council of Ministers, Department for Community Policies.

2.5. Budget and duration of the measure

(9) As the notified framework scheme will be applied by several public authorities to cope with the financial and economic crisis in Italy, the Italian authorities indicate that at this stage it is not possible to provide an annual budget for the notified measure.

(10) Under the scheme, guarantees can be granted as from its approval until 31 December 2010.

2.6. Beneficiaries

(11) The scheme applies to small and medium-sized enterprises ("SMEs") and large firms.

(12) No guarantee will be granted under this scheme to large firms which were, on 1 July 2008, firms in difficulties in the meaning of point 2.1 of the Community guidelines on State aid for rescuing and restructuring for firms in difficulty[9], nor to SMEs which were on that date firms in difficulties in the meaning of Art. 1 (7) of the General Block Exemption Regulation[10].

(13) The scheme may be applied to firms that were not in difficulty at that date but entered in difficulty thereafter as a result of the global financial and economic crisis.

(14) The Italian authorities estimate that the total number of beneficiaries will exceed 1000 firms.

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9 OJ C 244, 1.10.2004, pp. 2-17.

10 OJ L 214, 9.08..2008, pp. 3-47, Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation).

2.7. Sectoral and regional scope of the scheme

(15) The scheme applies to the whole territory of Italy, and is open to all sectors of the economy.

2.8. Basic elements of the scheme

(16) The guarantees under the scheme may relate to both investment and working capital loans.

(17) The guarantee may not exceed 90 % of the loan for the duration of the loan.

(18) The guaranteed maximum loan may not exceed the total annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the company site but formally in the payroll of subcontractors) for 2008. In the case of companies created after 1 January 2008, the maximum loan may not exceed the estimated annual wage bill for the first two years in operation.

(19) For SMEs, a reduction of up to 25% of the annual premium to be paid for new loan guarantees may be granted in accordance with the safe-harbour provisions as set out in the Annex to the Temporary framework. SMEs are defined in accordance with Annex I of the General Block Exemption Regulation.

(20) For large companies, a reduction of up to 15% of the annual premium for new guarantees calculated on the basis of the same safe-harbour provisions may be granted.

(21) For companies which do not have a credit history or a rating based on a balance sheet approach (such as certain special purpose companies or start-up companies), a reduction up to 15% (25% for SMEs) may be granted on the specific safe-harbour premium set at 3.8 % in the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[11]. However, the premium can never be lower than the premium which would be applicable to the parent company or companies.

(22) The reduction of the guarantee premium can be applied during a period of up to 2 years following the granting of the aid. Where the duration of the underlying loan exceeds 2 years, the safe-harbour premiums set out in the Annex to the Temporary framework may be applied for an additional maximum period of eight years. As for public guarantees connected with underlying loans that exceed 10 years of duration, the Italian authorities will apply for the exceeding period the conditions provided by the previously mentioned Commission Notice on State aid in the form of guarantees.

(23) The determination of the applicable safe harbour premium takes place on the basis of the situation of the beneficiary (credit rating and collateralisation) at the date of

[11] OJ C 155 of 20.6.2008, p 10.

granting the aid. The categories of collateralisation are defined in line with footnote 2 to the reference rate communication[12].

2.9. Cumulation

(24) The aid ceilings and cumulation maxima fixed under this scheme will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Community.

(25) The temporary aid measure may not be cumulated with *de minimis* aid[13] for the same eligible costs.

(26) Where *de minimis* aid was granted for the same purpose at an earlier stage and after 1 January 2008, it will be deducted from the aid equivalent of the guarantee fee reductions under the present scheme.

(27) Guarantees under this scheme may be cumulated with other compatible aid, which are not *de minimis* aid, or with other forms of Community financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemptions Regulations are respected.

2.10. Monitoring and reporting, language of decision, business secrets

(28) The Italian authorities confirm that the monitoring and reporting obligations laid down in Section 6 and footnote 23 of the Temporary Framework will be respected (e.g. by 31 July 2009, a list of schemes put in place on the basis of the Temporary framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years; by 31 October 2009 a report on the measures put in place should be provided). In particular, information will be obtained demonstrating that the beneficiary was not a company in difficulty on 1 July 2008.

(29) The Italian authorities confirm that the notification does not contain business secrets.

(30) The Italian authorities confirm their acceptance that the Commission decision is adopted in the English language, due to exceptional circumstances.

3. ASSESSMENT

3.1. Legality of the measure

(31) By notifying the aid measure before putting into effect, the Italian authorities respected their obligations under Article 88 (3) of the EC Treaty.

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12 Commission Communication on the revision of the method for setting the reference and discount rates, OJ C 14 of 19.1.2008, pp. 6-9.

13 OJ L 379, 28.12.2006, p. 5.

3.2. Existence of state aid

(32) State resources are involved in the notified scheme since the loan guarantees are made available by national, regional and local authorities.

(33) The measure is selective since guarantees are awarded only to certain undertakings.

(34) The measure confers an advantage by relieving the beneficiaries of costs which they would have to bear under normal market conditions since, without the intervention by the State, the beneficiaries would obtain loans only at higher costs, if at all. The favouring of certain undertakings means that competition is distorted or threatened to be distorted.

(35) The measure affects trade between Member States since the scheme is not limited to beneficiaries which are active in sectors where no intra-community trade exists.

(36) In view of the above, the Commission considers that the notified measure constitutes State aid within the meaning of Article 87 (1) of the EC Treaty. The Italian authorities do not contest that conclusion.

3.3. Compatibility of the measure

(37) Having established that the measure involves state aid within the meaning of Article 87 (1) of the EC Treaty, it is necessary to consider whether the above mentioned measure can be found compatible with the common market.

(38) The measure aims at facilitating the access of firms to external finance in a period of time where the normal functioning of credit markets is severely disturbed through the financial crisis, and where the financial crisis ("credit crunch") is affecting the wider economy and is leading to severe disturbances of the real economy of Member States.

(39) By adopting the Temporary Framework, the Commission indeed acknowledged (section 4.1) the "seriousness of the current financial crisis and its impact on the overall economy of the Member States". The Commission concluded "that certain categories of State aid are justified, for a limited period, to remedy these difficulties and that the may be declared compatible with the common market on the basis of Article 87(3)(b)."

(40) The measure aims at remedying a severe disturbance in the economy of Italy. As presented in recital 2, according to available data the economic situation in Italy worsened significantly in the fourth quarter of 2008 and the first months of 2009.

(41) The notified measure is part of a package of measures[14] conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of guarantee measures to stimulate lending by private banks to enterprises of all sizes during the current credit crunch is widely accepted by

[14] See footnote 7 above.

economic commentators and the measure of a scale which can be reasonably anticipated to produce effects across the entire economy.

(42) Furthermore, the measure has been designed to meet the requirements of the additional category of aid ("Aid in the form of guarantees") described in section 4.3.2 of the Temporary Framework.

(43) The Commission accordingly considers that the notified 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 safe-harbour premiums are established on the basis of the provisions defined in Art. 4.3.2. of the Temporary framework. The reductions of the applicable premiums are limited to 25% for SMEs, and 15% for large undertakings.

- The cumulation rules regarding combination with *de minimis* aid and aid for other purposes, as laid down in section 4.7 of the Temporary framework, are respected.

- In line with Article 4.3.2. i of the Temporary framework firms in difficulty (situation as of 1 July 2008) are excluded from benefitting from the scheme.

- In conformity with Article 4.3.2. g of the Temporary framework the benefit of guarantees under this scheme is limited to investment and working capital loans.

- In accordance with Article 4.3.2. f of the Temporary framework guarantees under this scheme are limited to 90% of the risk resulting from the loan, and this exposure rate must not be increased during the duration of the loan contract. The maximum loan amount per beneficiary, which may be covered by guarantees under the present scheme, is limited in line with the provisions of section 4.3.2.d of the Temporary framework.

- As required by Article 4.3.2. e and h of the Temporary Framework Communication guarantees under the scheme can be granted until 31 December 2010, and the reduced annual premiums can be applied for a maximum of two years following the granting of the aid. Where the duration of the underlying loan exceeds 2 years, the safe-harbour premiums set out in the Annex to the Temporary framework may be applied for an additional maximum period of eight years. As for public guarantees connected with underlying loans that exceed 10 years of duration, the Italian authorities will apply for the exceeding period the conditions provided by the previously mentioned Commission Notice on State aid in the form of guarantees.

- The Italian authorities have confirmed that the monitoring and reporting rules laid down in Article 6 of the Temporary framework will be respected.

3.4. Conclusion

(44) For these reasons, the Commission considers that the notified measure is in conformity with the Temporary framework and considers it to be compatible with the Treaty on the basis of Article 87(3)(b) EC. The Commission notes that the Italian authorities have confirmed that the notification does not contain business secrets, and that Italy accepts that the decision be adopted in the English language.

4. DECISION

(45) The Commission has accordingly decided to consider the notified aid scheme as compatible with the EC Treaty.

(46) The Commission reminds the Italian authorities of their commitment to transmit the final version of the legal basis as soon as possible after the approval of the notified scheme.

Yours faithfully,
For the Commission

Neelie KROES
Member of the Commission