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Subject: **State Aid SA.56755 (2020/N) – Portugal**
Guarantee schemes related to Covid-19

Excellency,

1. PROCEDURE

(1) By electronic notification of 21 March 2020, Portugal notified aid in the form of guarantees on loans ("the measures") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (hereinafter referred to as the "Temporary Framework").[1]

(2) The measures take the form of four guarantees schemes: 1) aid to companies active in the touristic sector in the form of guarantees; 2) aid to restaurants and similar companies in the form of guarantees; 3) aid to extractive/manufacturing companies in the form of guarantees, and 4) aid to Travel Agencies, Touristic Animation and Event Organisation and similar companies in the form of guarantees.

(3) The Portuguese authorities confirm that the notification does not contain business secrets.

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[1] Communication from the Commission - Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, C(2020) 1863 final, not yet published in the OJ. https://ec.europa.eu/competition/state_aid/what_is_new/sa_covid19_temporary-framework.pdf.

S. Ex.ª o Ministro dos Negócios Estrangeiros
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(4) By letter of 18 March 2020, Portugal exceptionally agreed 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.

2. DESCRIPTION OF THE MEASURES

(5) Portugal considers that the COVID-19 outbreak starts affecting the real economy. The notified measures form part of an overall package of measures and aim to ensure that sufficient liquidity remains available in the markets, to counter the damage inflicted on impacted undertakings and to preserve the continuity of economic activity during and after the COVID-19 outbreak.

(6) Portugal points out that the impact in Portugal will certainly be in line or even bigger than other EU economies, since the Portuguese economy is highly dependent on tourism and the third sector activities (provision of services). According to the Portuguese authorities, the significant impact of the COVID-19 outbreak on the economic activity is mainly driven by the following factors: the interruption of supply chains that prevent the continuation of business activity in full; the restrictions imposed on the movement of persons and goods[3]; the sudden reduction of activity in certain particularly sensitive sectors and the non-attendance of employees. Within this scenario, companies are currently facing difficulties in fulfilling their obligations due to falling revenues and absenteeism.

(7) The Portuguese authorities have already adopted a set of measures to mitigate the economic impacts of the epidemic outbreak, supporting Portuguese companies and safeguarding employment. These measures entailed, as a first step, support to workers temporarily prevented from carrying out their professional activity. Subsequently, Portugal approved a set of measures aimed at supporting the treasury of companies and safeguarding the maintenance of jobs, including the creation of a credit line of EUR 200 million to support the treasury of companies, the acceleration of the payment of incentives, the deferral of subsidy repayments and the strengthening of export credit insurance with State guarantees.

(8) The notified measures have been designed to be compatible with the internal market under Article 107(3)(b) TFEU, as interpreted by Section 2 of the Temporary Framework.

2.1. The nature and form of aid

(9) The aid will be provided in the form of guarantees on loans.

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[2] OJ 17, 6.10.1958, p. 385.

[3] On 12 March, the Portuguese Government, through Decree-Law no. 10-A/2020 adopted several measures, including the restriction on access to restaurants and other drinking and eating establishments and commercial establishments. Those restrictions were developed through Order no. 71/2020, of 15 March. Other restrictions adopted further enhance the direct effect of COVID-19 on the regular functioning of the real economy:

a) Order 3186-C and C/2020 on the suspension of flights from Italy;
b) Order 3298-B/2020, of 11 March, on the declaration of a state of alert in Portugal;
c) Order 3298-C/2020 of 13 March, on naval tourism;
d) Order 3299/2020 of 14 March, on the closing of bars at 9pm;
e) Order 3301-B/2020 of 15th March; or
f) Order 3301-C/2020, of 15th March.

2.2. Legal basis

(10) The legal basis for the measures is the legal framework applicable to the Portuguese Mutual Guarantee System:

– The Decree-Law no. 229/98, of 22 July creates the Mutual Counter-guarantee Fund and defines the functions of SPGM as its management company.

– *SPGM Sociedade do Investimento S.A. ("SPGM")* is a financial company in the form of an investment company (Article no. 6/1, (b) (ii) of the Regime Geral das Instituições de Crédito e Sociedades Financeiras ("RGICS"), and its articles of association set out that "*The corporate purpose of the company shall be all financial operations and related services which, by law, are permitted to investment companies*".

– SGMs' legal framework is defined in Decree-Law no. 211/98, of 16 July (as amended by Decree-Law no. 157/2014, of 24 October, Decree-Law no. 100/2015, of 2 June, and Decree-Law no. 309-A/2007, of 7 September).

2.3. Administration of the measures

(11) The measures will be implemented by SPGM as the entity heading the Portuguese Mutual Guarantee System. SPGM is an investment company that manages the Mutual Counter-guarantee Fund (*Fundo de Contragarantia Mútuo, "FCGM"*), created by the Decree-Law no. 229/98, of 22 July, and encourages and supports the creation of mutual guarantee societies (*sociedades de garantia mútua, "SGMs")* by participating in their share capital.

(12) The FCGM is a public legal entity responsible for 'promoting and carrying out the actions required to ensure the solvency of the Mutual Guarantee Societies'. The FCGM counter-guarantees operations performed by SGMs, having several guarantee lines, resulting from public or international funding. In case the FCGM is delayed in the performance of its obligations, creditors are entitled to take action against the Portuguese State. The counter-guarantee provided by FCGM reduces the risk incurred by the SGMs, reducing their required provisions, having a multiplier effect on their ability to provide guarantees without undermining their solvency ratio.

(13) At the operational level, the SGMs provide guarantees to firms (the final beneficiaries) ensuring the repayment of the amount due to the lender up to the coverage specified in recital (31). The specific legal framework for the Mutual Guarantee activity was adopted by Decree-Law no. 211/98, of July 16th.

2.4. Budget and duration of the measures

(14) The Portuguese authorities confirm that no more than EUR 3 billion of nominal amounts in total will be guaranteed under the measures, i.e. the four guarantee schemes referred to in recital (1).

(15) The scheme "*Aid to companies active in the touristic sector in the form of guarantees*" will provide guarantees for credit lines up to EUR 900 million, of which EUR 300 million will target micro and small enterprises, EUR 600 million medium enterprises and midcaps.

(16) The scheme “*Aid to restaurants and similar companies in the form of guarantees*” will provide guarantees for credit lines up to EUR 600 million, of which EUR 270 million will have micro and small enterprises as a target, EUR 321 million will target medium companies and small midcaps and EUR 9 million will target regular midcaps.

(17) The scheme “*Aid to extractive/manufacturing companies in the form of guarantees*” will provide guarantees for credit lines up to EUR 1.3 billion, of which EUR 400 million will have micro and small enterprises as a target and EUR 900 million will target medium enterprises and midcaps.

(18) The scheme “*Aid to Travel Agencies, Touristic Animation and Event Organisation and similar companies in the form of guarantees*” will provide guarantees for credit lines up to EUR 200 million, of which EUR 75 million will have micro and small enterprises as a target, EUR 120.5 million will target medium companies and small midcaps and EUR 4.5 million will target regular midcaps.

(19) Under the measures, guarantees can be granted from the date of this Decision until 31 December 2020.

2.5. Beneficiaries

(20) The final beneficiaries of the measures are undertakings established in Portugal. The aid may be granted to undertakings that were not in difficulty on 31 December 2019[4], but face difficulties or entered in difficulty thereafter as a result of the COVID-19 outbreak. The aid is to be granted through the Portuguese mutual guarantee system, including the mutual guarantee companies, which can be considered financial intermediaries.

(21) As explained, the measures notified by Portugal consists of four different Guarantee Schemes aimed at providing support to four different sectors of economic activity. Apart from the sector of economic activity, different for each scheme, the characteristics of the beneficiaries in all the four Schemes are the same.

(22) Potential beneficiaries must prove that their activities in March 2020 and following months have been reduced as a consequence of the outbreak of the COVID-19 virus.

(23) The beneficiaries have to be micro, small and medium enterprises (SME), as set out in Recommendation 2003/361/EC of the European Commission, certified by the Electronic Declaration of IAPMEI, as well as Small Mid Cap and Mid Cap, as set out in Decree Law no. 81/2017, of 30 June, located in Portugal, which comply cumulatively with the following requirements:

- Show a positive net position in the last approved balance sheet; companies with a negative net position on the last approved balance sheet may access the line if they demonstrate this situation is regularised in an interim balance sheet approved until the date of the operation;

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4 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.

– Do not have any unregulated incidents with Banks and the Mutual Guarantee System on the date of issue of the contract;

– Have their situation regularized with the Tax Administration and Social Security on the date of contracting the financing;

– Present a specific statement with:

(i) the commitment to maintain permanent jobs, throughout the term of the loan in relation to the proven number of employees as of February 1st of 2020, to be issued by the company; or

(ii) proof of being subject to the lay-off regime, issued by the Social Security Institute.

2.6. Sectoral and regional scope of the measures

(24) All four notified guarantee schemes apply to the whole territory of Portugal. The sectoral scope, however, is different for each of the schemes.

(25) The Scheme "*Aid to companies active in the touristic sector in the form of guarantees*" concerns beneficiaries active in the following NACE codes economic areas:

Code	Designation
Section I	**Accommodations, restaurants and others which are similar**
55111	Hotels with restaurant
55112	Pensions with restaurant
55113	Lodges with restaurant
55114	Inns with restaurant
55115	Motels with restaurant
55116	Apartment-Hotels with restaurant
55117	Tourism resorts with restaurant
55118	Tourism apartments with restaurant
55119	Other hotel establishments with restaurant
55121	Hotels without restaurant
55122	Pensions without restaurant
55123	Tourism apartments without restaurant
55124	Other hotel establishments without restaurant
55201	Furnished accommodation for tourists
55202	Tourism in rural areas
55203	Colonies and holiday camps
55204	Other short-term accommodation
55300	Camping and caravan sites
55900	Other places of accommodation
Section N	**Administrative activities and support services**
77110	Rental of light motor vehicles
77120	Rental of heavy motor vehicles

(26) The Scheme "*Aid to restaurants and similar companies in the form of guarantees*" concerns beneficiaries active in the following NACE codes economic areas :

Code	Designation
Section I	**Accommodations, restaurants and others which are similar**
56101	Traditional restaurants
56102	Restaurants with places at the counter
56103	Restaurants without table service
56104	Typical restaurants
56105	Restaurants with dance floor
56106	Take away restaurants
56107	Restaurants (including portable restaurant activities)
56210	Event catering supply
56290	Other meal service activities
56301	Coffee shops
56302	Bars
56303	Pastries and tea houses
56304	Other beverage facilities without showrooms
56305	Beverage and dancing facilities

(27) The Scheme "*Aid to extractive/manufacturing companies in the form of guarantees*" concerns beneficiaries active in the following NACE codes economic areas:

Code	Designation
Section B	**Extractive Industries**
8111	Extraction of marble and other carbonate rocks
8112	Extraction of ornamental granite and similar stones
8113	Extraction of limestone and chalk
8114	Extraction of plaster
8115	Extraction of slate
8121	Extraction of gravel, sand and crushed stone
8122	Extraction of clay and kaolin
8910	Extraction of minerals for the chemical industry and for the manufacture of fertilisers
8920	Extraction of peat
8931	Extraction of sea salt
8932	Extraction of yolk salt
8991	Extraction of feldspar
8992	Extraction of other non-metallic minerals, n.e.
Section C	**Manufacturing Industries**
13101	Preparation and spinning of cotton-type fibres
13102	Preparation and spinning of wool type fibres
13103	Preparation and spinning of silk and preparation and texturization of synthetic and artificial filaments
13104	Manufacture of sewing threads
13105	Preparation and spinning of flax and other textile fibres
13201	Cotton-type weaving
13202	Woollen type weaving

13203	Silk and other textile weaving
13301	Bleaching and dyeing
13302	Stamping
13303	Finishing of yarns, fabrics and textile articles n.e
13910	Manufacture of knitted and crocheted fabrics
13920	Manufacture of made-up textile articles, except apparel
13930	Manufacture of carpets and rugs
13941	Manufacture of rope
13942	Manufacture of net
13950	Manufacture of non-wovens and respective articles, except apparel
13961	Manufacture of trimmings and services
13962	Manufacture of textiles for technical and industrial use n.e.
13991	Embroidery manufacturing
13992	Manufacture of lace
13993	Manufacture of other miscellaneous textiles n.e.
14110	Manufacture of leather garments
14120	Manufacture of working clothes
14131	Manufacture of other outerwear in series
14132	Manufacture of other made-to-measure outerwear
14133	Garment finishing activities
Section C	**Manufacturing Industries**
14140	Manufacture of underwear
14190	Manufacture of other articles of clothing and clothing accessories
14200	Manufacture of fur articles
14310	Manufacture of knitted and crocheted hosiery
14390	Manufacture of other knitted and crocheted apparel
15111	Tanning and finishing of hairless leather
15112	Manufacture of reconstituted leather
15113	Tanning and finishing of fur
15120	Manufacture of travel and personal goods, leather goods, saddlery and saddlery
15201	Footwear manufacture
15202	Manufacture of footwear components
16101	Wood sawmill
16102	Wood impregnation
16211	Manufacture of wood particle board
16212	Manufacture of wood fibre boards
16213	Manufacture of veneer sheets, plywood, laminboard and other panels
16220	Parquetry
16230	Manufacture of other construction carpentry
16240	Manufacture of wooden packaging
16291	Manufacture of other wood products
16292	Manufacture of basketry and wickerwork
16293	Cork preparation industry
16294	Manufacture of cork stoppers
16295	Manufacture of other cork products
31010	Manufacture of office and commercial furniture
31020	Manufacture of kitchen furniture
31030	Mattress manufacturing

31091	Manufacture of wooden furniture for other purposes
31092	Manufacture of other metal furniture
31093	Manufacture of other furniture for other purposes
31094	Furniture finishing activities

(28) The Scheme "*Aid to Travel Agencies, Touristic Animation and Event Organisation and similar companies in the form of guarantees*" concerns beneficiaries active in the following NACE codes economic areas:

Code	Designation
Section N	**Administrative activities and support services**
82300	Organization of fairs, congresses and other similar events
Section R	**Artistic, spectacular, sporting and recreational activities**
90010	Performing arts activities
90020	Support activities for performing arts
90030	Artistic and literary creation
90040	Operation of venues and related activities
91011	Library activities
91012	Archive activities
91020	Museum activities
91030	Activities of historical sites and monuments
91041	Zoo, botanical and aquarium activities
91042	Activity of parks and nature reserves
92000	Lotteries and other betting games
93110	Management of sports facilities
93120	Activities of sports clubs
93130	Gym activities (fitness)
93191	Regulatory bodies for sports activities
93192	Other sporting activities n.e.
93210	Fun and theme park activities
93291	Bullfighting activities
93292	Activities of marinas
93293	Organization of tourist entertainment activities
93294	Other entertainment and recreational activities n.e.
Section N	**Administrative activities and support services**
79110	Travel agency activities
79120	Activities of tour operators
79900	Other reservation services and related activities

2.7. Basic elements of the measures

(29) As described in recitals (11) to (13), the measures are implemented through the Portuguese mutual guarantee system and entails two different levels:

– The SGMs grant guarantees to final beneficiaries on eligible operations that have to comply with the requirements described below in recital (30). Those guarantees have the characteristics set up in recital (31).

– FCGM grants a counter-guarantee to each SGM that covers 100% of the guarantee issued by the SGM to the final beneficiary. The FCGM is entitled to part of the guarantee premium.

(30) **Eligible Operations** must meet the following conditions**:**

– They must be short and medium term bank loans aimed at the financing of treasury needs.

– Maximum Amount of Financing per Company:

	Amount (euros)
Micro companies	50 000
Small companies	500 000
Medium companies, Small Mid cap and Mid Cap	1 500 000

In addition, the Portuguese authorities confirm that the thresholds fixed in point 25 (d) and (e) of the Temporary Framework will be complied with.

– Maturity: up to 4 years, after the contracting of the operation.

– Grace Period: up to 12 months of capital shortage, after the contracting of the operation. The grace period is mandatory for banks benefitting from the guarantee; if the borrower wishes so, he may repay earlier.

– Amortisation of Capital: equal, successive and in arrears monthly instalments.

– Deadline for use: up to 12 months after the date of contracting of the operations, with monthly, equal and successive uses, and the Credit Institutions may not assign a credit value date in the client's account prior to the date of effective availability of the funds.

– Interest Rate: as agreed between the Bank and the beneficiary, a fixed or variable interest rate plus a spread of up to 1.5% will be applied to the operation.

– The beneficiary companies will pay the interest rate in full, monthly and in arrears.

(31) **Loan Guarantees** will be granted on the following terms:

– The credit operations benefit from a guarantee at first request provided by the SGM in order to guarantee the outstanding loan principal at each point in time to the maximum of:

	% of Guarantee
Micro and Small companies	90%
Medium companies, Small Mid Cap and Mid Cap	80%

– The guarantee is provided on *pari passu* terms. Losses are sustained proportionally and under the same conditions, by the credit institution and the guarantor SGM.

– The guarantee will be available for lending from any financial institution.

– The guarantee covers the whole maturity of the loan (i.e. up to 4 years). This period includes the grace period of up to 12 months.

– The guarantee can be granted until 31 December 2020.

– The guarantee fees are progressive in time and step up each year for the outstanding amount until the final maturity of the underlying credit operation in order to incentivise early repayment.

– Portugal has fixed the guarantee premia for SMEs following the grid established in point 25 (a). For guarantee premia to be paid by Small Midcaps and Midcaps, Portugal has taken advantage of the flexibility provided by point 25 (b) of the Temporary Framework, whereby Member States may notify schemes, considering the table in point 25 (a) as basis, but with the possibility to modulate maturity, pricing and guarantee coverage (e.g. lower guarantee coverage offsetting a longer maturity). Hence, and considering the lower coverage ratio of 80%, compared to maximum 90% allowed under the Temporary Framework, on loans that Portugal is providing to Small Mid Cap and Mid Cap, the Portuguese authorities have notified minimum guarantee premia that are lower than those in the grid of point 25 (a).

– All in all, the guarantee premia are established as follow:

Recipient	1st year	2nd and 3rd year	4th year
SMEs (Micro, Small and Medium companies)	25bps	50bps	100bps
Small Mid caps and Midcaps	30bps	80bps	175bps

(32) The Portuguese authorities have also confirmed that the mobilisation of the guarantees is contractually linked to specific conditions which are agreed between the parties when the guarantee is initially granted.

2.8. Cumulation

(33) The aid ceilings and cumulation maxima fixed under the notified measures will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the European Union.

(34) For the same underlying loan principal, aid granted under section 3.2 and section 3.3 of the Temporary Framework cannot be cumulated.

(35) Aid under these measures may be cumulated with other compatible aid, *de minimis* aid or with other forms of European Union financing provided that the maximum aid intensities indicated in the relevant State Aid Guidelines or State Aid Block Exemptions Regulations are respected.

2.9. Monitoring and reporting

(36) The Portuguese authorities confirm that the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework will be respected (*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). In particular, information will be obtained demonstrating that the beneficiary was not a company in difficulty on 31 December 2019 within the meaning of the General Block Exemption Regulation[5] (GBER).

3. ASSESSMENT

3.1. Legality of the measures

(37) By notifying the measures before putting it into effect, the Portuguese authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(38) By virtue of Article 107(1) TFEU, "*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.*"

(39) The notified measures are imputable to the State, since it is operated by *SPGM Sociedade do Investimento S.A.* as the entity heading the Portuguese Mutual Guarantee System. They are also imputable to Portugal since enabled through the Mutual Counter-guarantee Fund (*Fundo de Contragarantia Mútuo-FCGM*),

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[5] 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.

a public legal entity. The measures involve State resources, since they are granted in the form of subsidised State guarantees.

(40) The measures are selective since it is awarded only to certain undertakings, in particular undertakings of specific sectors as described for each of the different notified schemes in recitals (25) to (28).

(41) The measures confer an advantage on its beneficiaries by relieving them of costs which they would have had to bear under normal market conditions. That advantage is granted to the companies in the form of subsidised State guarantees, which transfer a financial benefit otherwise unavailable to those companies on the market. Without the intervention of the State, the beneficiaries would only obtain loans at higher costs, if at all.

(42) The measures affect trade between Member States and are liable to distort competition since the measures strengthen the competitive position of beneficiaries, which are active in sectors where intra-Union trade exists.

(43) In view of the above, the Commission considers that the notified measures constitute State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

(44) Having established that the measures involve State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether the measures can be found compatible with the internal market.

(45) 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*".

(46) 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*".

(47) According to the Portuguese authorities, the measures aim at facilitating the access of firms to external finance, in particular access to liquidity for the real economy in a period of time where the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak, and where the COVID-19 outbreak is affecting the wider economy and is leading to severe disturbances of the real economy of Member States. This objective is recognised in point 4 of the Temporary Framework.

(48) The measures are part of a series of measures conceived at national level by the Portuguese authorities to remedy a serious disturbance in their economy. The importance of the measure to support lending by private banks to enterprises during the COVID-19 outbreak and to remedy the liquidity shortage faced by undertakings is widely accepted by economic commentators and the measures are

of a scale that can be reasonably anticipated to produce effects across the entire Portuguese economy. In point 9 of the Temporary Framework, the Commission recognised that the COVID-19 outbreak poses the risk of a serious downturn affecting the whole economy of the EU, hitting businesses, jobs and households. Considering that the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings, the Commission considers that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, The Commission set out in the Temporary Framework the compatibility conditions it will apply in principle to the aid granted by Member States under Article 107(3)(b) TFEU.

(49) The Commission accordingly considers that the notified measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State. Furthermore, the measures have been designed to meet the requirements of the specific category of aid ("*Aid in the form of guarantees*") described in Section 3.2 of the Temporary Framework, in particular:

- Guarantee premia for SMEs comply with point 25 (a)) of the Temporary Framework.

- Guarantee premia for Small Midcaps and Midcaps comply with point 25(b), given that it offers Member States the possibility to notify schemes considering point 25(a) as basis, but whereby maturity, pricing and guarantee coverage can be modulated. The coverage ratio applied to Medium companies, Small Mid Cap and Mid Caps is 80 percent, which is below the maximum 90 percent allowed under point 25(f) of the Temporary Framework. A lower coverage ratio allows for a lower pricing as the increased risk-sharing with financial intermediaries ensures that a portfolios of guarantees held by the Portuguese authorities will be less risky.

- In conformity with point 25(c) of the Temporary Framework, the guarantees can be granted until 31 December 2020 at the latest.

- For all loans, Portugal has committed to ensure that the amount of the loan principal does not exceed the conditions set out in point 25(d) of the Temporary Framework.

- In conformity with point 25(f) of the Temporary Framework, the duration of the guarantees is limited to maximum 4 years. The guarantees cover only up to 90% of the loan principal, since the losses are sustained proportionally and under same conditions, by the credit institutions and the SGM. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally.

- In conformity with point 25(g) of the Temporary Framework, the guarantees may relate to both investment and working capital needs.

- In conformity with point 25(h) of the Temporary Framework, firms that were in difficulty on 31 December 2019 are excluded from benefitting from the measures.

(50) The Commission also considers that the measures fulfil the conditions described in section 3.4 of the Temporary Framework regarding aid in the form of guarantees and loans channelled through credit institutions or other financial institutions. In particular, the measures comply with point 31 of the Temporary Framework, which requires that the financial intermediary must be able to demonstrate that it operates a mechanism that ensures that the advantages are passed on, to the largest extent possible, to the final beneficiaries. The mechanisms requires that the undertakings in the target group are experiencing substantial losses hampering their ability to service debt and loans and the terms of the scheme set up a threshold for the interest rate that can be charged by the credit institutions. In this regard, the maximum amount of 1.5% spread is way below the one they would charge if no State guarantee were provided. On top of each operation proposed by the banks, SGM conducts an operation-to-operation risk analysis (both credit risk and commercial risk), which ensures the passing on of the advantage from the State guarantee, therefore including higher volume of financing, riskier portfolios, lower collateral requirements and lower interest rates. In addition, the guarantee is granted to the final beneficiary, who can use the guarantee for a credit operation in any given bank. This means that the beneficiary can search the best conditions for the credit operation, thus fostering competition among banks. The Commission notes that the fee collected by the SGMs from the final beneficiaries is shared with the FCGM, thus contributing to reduce the possible indirect advantage for them.

(51) The Portuguese authorities have confirmed that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected.

(52) In line with section 5.3 of the Commission Notice on the application of Articles 107 and 108 TFEU to State aid in the form of guarantees[6], the mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the parties when the guarantee is initially granted.

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

(53) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"**BRRD**"**)[7] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (**"**SRMR**"**),[8] 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.

(54) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU under 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.[9] Nevertheless, such indirect aid does not have the objective to preserve or restore the viability, liquidity or solvency of those institutions. The objective of the aid at issue is to remedy the liquidity shortage faced by

6 OJ C 155, 20.6.2008, p. 10–22.
7 OJ L 173, 12.6.2014, p. 190-348.
8 OJ L 225, 30.7.2014, p. 1-90.
9 Points 6 and 29 of the Temporary Framework.

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, such aid does not qualify as extraordinary public financial support under Art. 2(1) 28 BRRD and Art. 3(1) 29 SRMR.

(55) Moreover, as indicated in recital (50) above, the notified measures introduce safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the notified measures to the final beneficiaries.

(56) The Commission therefore concludes that the notified measures do not appear to violate any intrinsically linked provisions of 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