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**Subject:** State Aid SA.56841(2020/N) – United Kingdom - COVID-19  
Temporary Framework for UK authorities

Dear Foreign Secretary

**1. PROCEDURE**

- (1) By electronic notification of 26 March 2020, the United Kingdom (the “UK”) notified aid in the form of an umbrella scheme (the *COVID-19 Temporary Framework for UK authorities*, or the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).<sup>1</sup>
- (2) The UK authorities confirm that the notification does not contain confidential information.

**2. DESCRIPTION OF THE MEASURE**

- (3) The measure is aimed at remedying the liquidity shortage faced by undertakings and ensuring that disruptions caused by the Covid-19 outbreak do not undermine their viability.

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<sup>1</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020 (OJ C 91 of 20.3.2020, p. 1-); See also Communication from the Commission: Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, of 3 April 2020 (not yet published in the Official Journal).

The Rt Hon Dominic Raab  
Secretary of State for Foreign and Commonwealth Affairs  
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- (4) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted by Section 2 of the Temporary Framework.

## **2.1. The nature and form of aid**

- (5) The measure is an umbrella scheme and provides aid in the form of:
- (a) Direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity;
  - (b) Guarantees on loans;
  - (c) Subsidised interest rates on loans;
  - (d) Guarantees channelled through credit institutions or other financial institutions;
  - (e) Direct grants, repayable advances or tax advantages for COVID-19 relevant research and development;
  - (f) Investment aid for testing and upscaling infrastructures;
  - (g) Investment for the production of COVID-19 relevant products.

## **2.2. National legal basis**

- (6) The legal basis for the measure are the following acts: Local Government in Scotland Act 2003; Enterprise and New Towns (Scotland) Act 1990; Transport (Scotland) Act 2001; South of Scotland Enterprise Act 2019; Government of Wales Act 2006 Section 60; Welsh Development Agency Act 1975 (Section1) as amended; The Industrial Development (Northern Ireland) Order 1982; The Industrial Development (Northern Ireland) Act 2002; Energy Efficiency (Northern Ireland) Order 1999; Local Government, Planning and Land Act 1980; Leasehold Reform, Housing and Urban Development Act 1993; Local Government Act 2000; Housing and Regeneration Action 2008; The Public Contracts Regulation SI2006 No 5; Industrial Training Act 1982; Sustainable Communities Act 2007; National Lottery Act 1993; Environmental Protection Act 1990; Further Education and Training Act 2007; Industrial Development Act 1982; Learning and Skills Council Act 2000; Science and Technology Act 1965; Energy Act 2004; Banking Act 2009; Coronavirus Act 2020 and legislation made under that Act; Agriculture (Temporary Assistance) Act (Northern Ireland) 1954; Fisheries Act 1981; Rates (Small Business Hereditament Relief) Regulations (Northern Ireland) 2010; Financial Assistance Act (Northern Ireland) 2009; Harbours Act (Northern Ireland) 1970; The Airports (Northern Ireland) Order 1994; Housing Grants, Construction and Regeneration Act 1996; Infrastructure (Financial Assistance) Act 2012; Charities Act 2006; The Common Law Powers of the Crown (In conjunction with the annual Supply and Appropriation Acts); Natural Environment and Rural Communities Act 2006; Postal Services Act 2000; Postal Services Act 2011; Corporation Tax Act 2009; Corporation Tax Act 2010; Commissioners for Revenue and Customs Act 2005; Finance Act 2008; National Insurance Contributions Act 2014; Social Security Administration Act 1992; Social Security Administration (Northern Ireland) Act 1992; Social

Security Contributions and Benefits Act 1992 (and regulations made under that Act); Security Contributions and Benefits (Northern Ireland) Act 1992; Tax Credits Act 2002; The Taxes Acts (including the Income and Corporation Taxes Act 1988 and The Income Tax (Earnings and Pensions) Act 2003); International Development Act 2002; Academies Act 2010; Apprenticeships, Skills and Children and Learning Act 2009; Children Act 1989; Children and Families Act 2014; Children and Social Work Act 2017; Education Act 1996; Education Act 2002; Employment and Training Act 1973; Higher Education and Research Act 2017; Local Government Act 2003; Technical and Further Education Act 2017; Health and Social Care Act 2008; Health Services and Public Health Act 1968; Housing Act 1985; Housing Act 1988; Housing Act 1996; Local Government Finance Act 1988; Localism Act 2011; Town and Country Planning Act 1990; Housing and Planning Act 1986; Greater London Authority Act 1999; Local Government and Housing Act 1989; Local Democracy, Economic Development and Construction Act 2009; National Health Service Act 2006; National Institute for Health and Care Excellence (Constitution and Functions) and the Health and Social Care Information Centre (Functions) Regulations 2013/259; Export and Investment Guarantees Act 1991; Civil Aviation Act 1982; Clean Neighbourhoods and Environment Act 2005; Environmental Protection Act 1990; Agriculture Act 1970; Agriculture Act 1986; Agriculture Act 1993; Food and Environment Protection Act 1985; Farm Land and Rural Development Act 1988; Forestry Act 1979; Plant Health Act 1967; Animal Health Act 1981; Water Industry Act 1991; Environment Act 1995; Grants for Fishing and Aquaculture Industries Regulations 2015; Fisheries Bill 2020 ; Transport Act 2000 ; Infrastructure Act 2015; The Planning Act 2008; Community Infrastructure Levy Regulations 2010; Housing Associations Act 1985; Commonhold and Leasehold Reform Act 2002; Communications Act 2003; BBC Royal Charter; Harbours (Loans) Act 1972; Railways Act 2005; Armed Forces (Service Complaints and Financial Assistance) Act 2015; Public Contracts Regulations 2015; Higher Education and Research Act 2017.

### **2.3. Administration of the measure**

- (7) The measure is a UK-wide scheme, allowing aid to be granted by all relevant aid awarding authorities, including central government, devolved governments, local authorities and other public bodies or other bodies administering schemes imputable to state resources from their own budgets using the spending powers set out in the applicable act listed in recital (6) and all other statutory authorities enabling public authorities to provide financial assistance.

### **2.4. Budget and duration of the measure**

- (8) The UK authorities estimate that the overall budget for the measure will not exceed GBP 50 billion (approximately EUR 57 billion) and that the budget for aid in the form of direct grants, repayable advances and tax advantages of grants will not exceed GBP 40 billion (approximately EUR 45 billion). The UK stresses that the aid amount that will be available under the measure has not yet been confirmed and will be a matter for individual public authorities.
- (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 small and medium-sized enterprises (SMEs)<sup>2</sup> and large companies in the UK with the exclusion of any credit institution or other entity undertaking that could be subject to the Directive 2014/59/EU on bank recovery and resolution (“BRRD”)<sup>3</sup> (e.g. financial institutions, credit institutions, investment firm, etc.). Aid may be granted under the measure only to undertakings that were not in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>4</sup> on 31 December 2019. Aid is granted under the measure either directly or through credit institutions and other financial institutions as financial intermediaries.

## **2.6. Sectoral and regional scope of the measure**

- (11) The measure is open to all sectors. It applies to the whole territory of the UK.

## **2.7. Basic elements of the measure**

- (12) Aid in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity, whereas:
- (a) The gross amount of aid granted under the measure will not exceed EUR 800 000 per undertaking in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity;
  - (b) As explained in recital (8), the UK authorities estimate that the overall budget for aid granted in the form of direct grants, repayable advances and tax advantages will not exceed GBP 40 billion;
  - (c) Under the measure, aid will be granted no later than 31 December 2020;
  - (d) Under the UK scheme, aid granted to undertakings active in the processing and marketing of agricultural products is conditional on it not being partly or entirely passed on to primary producers and 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;
  - (e) The derogations in paragraph 23(a) of the Temporary Framework Communication will apply and the gross amount of aid before any

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<sup>2</sup> The UK authorities confirmed that they define SMEs, for the application of the Temporary Framework, in accordance with Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, C(2003) 1422 (OJ L 124, 20.5.2003, p. 36).

<sup>3</sup> OJ L 173, 12.6.2014, p. 190-348.

<sup>4</sup> 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. Wherever reference is made in the measure to the definition of “undertaking in difficulty” as contained in Article 2(18) of Regulation (EU) No 651/2014, it shall be read as also referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation 1388/2014 respectively.

deduction of tax or other charge will not exceed EUR 120 000 per undertaking active in the agricultural, fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products;

- (f) Additionally, for agricultural, fishery and aquaculture sector<sup>5</sup>, whereas:
- aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market;
  - aid to undertakings active in the fishery and aquaculture sector will 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;
  - where an undertaking is active in several sectors to which different maximum amounts apply, the UK authorities will ensure by appropriate means such as separation of accounts, for each of these activities the relevant ceiling is respected.
- (g) Loans may be granted to undertakings that were not in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.
- (13) Aid in the form of guarantees on loans, whereas:
- (a) The UK authorities will set a flat guarantee premium in accordance with point 25(b) of the Temporary Framework. The amount of the guarantee premium will be determined by the total duration of the loan and the category of borrower (SME or Large Enterprise). The guarantee premium will be fixed for the duration of the loan and will be set at the minimum level applicable to the time bucket, as stipulated in point 25(a) of the Temporary Framework, corresponding to the maximum duration of the loan. For example, the guarantee premium for a six-year loan to an SME will be 100bps for each year of the loan;
  - (b) All loans to which the guarantees may apply will be agreed by 31 December 2020 at the latest. Borrowers will therefore have the benefit of any such guarantees, and therefore aid will be granted, by 31 December 2020 at the latest;
  - (c) The overall amount of the guaranteed loan per beneficiary will not exceed the limits set out in paragraph 25(d) of the Temporary Framework. The UK authorities expect the most relevant threshold to be 25(d)(iii). Borrowers will be required to self-certify and provide appropriate justification for their liquidity needs in accordance with 25(d)(iii), which will be assessed by the lenders;

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<sup>5</sup> As defined in Article 2(1) of Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector, OJ L 190, 28.6.2014, p. 45.

- (d) It is unlikely that any guarantees will be granted with a maturity on or before 31 December 2020. However, if there are any such guarantees granted then they will be assessed on the same basis as under 25(d) of the Temporary Framework;
  - (e) The maximum duration of guarantees made available by UK public authorities will be six years;
  - (f) The guarantee coverage will be limited to 90% of the loan amount and losses will be sustained proportionally and under the same conditions by the lender and the relevant UK authorities. If the size of the loan decreases then the value of the guarantee will decrease proportionally, such that the proportion of the loan guaranteed will remain at the same proportion;
  - (g) Guarantees may be made available for both investment and working capital loans;
  - (h) The triggers for a lender to claim under the guarantee are conditions that will be agreed between the parties when the guarantee is granted and written specifically into the guarantee documentation;
  - (i) Guarantees may be granted to undertakings that were not in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.
- (14) Aid in the form of subsidised interest rates on loans, whereas:
- (a) Loans may be granted at reduced interest rates which are at least equal to the base rate (1 year IBOR or equivalent as published by the Commission<sup>6</sup>) applicable on 1 January 2020 plus the credit risk margins set out in the table in paragraph 27(a) of the Temporary Framework;
  - (b) For loans to SMEs, the minimum all-in interest rate (base rate plus the credit risk margins) will be at least 10bps per year;
  - (c) The measure does not allow any of the modulations provided for in point 27 (b) of the Temporary Framework;
  - (d) Loan contracts under the UK scheme will be signed by 31 December 2020 at the latest and are limited to maximum 6 years;
  - (e) For loans with a maturity beyond 31 December 2020, the overall amount of the loan per beneficiary shall not exceed the limits set out in paragraph 27(d) of the Temporary Framework. For loans with a maturity until 31 December 2020, the amount of the loan principal will also respect the limits set out in paragraph 27(d) of the Temporary Framework;

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<sup>6</sup> Base rates calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p.6.) and published on the website of DG Competition at [https://ec.europa.eu/competition/state\\_aid/legislation/reference\\_rates.html](https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html).

- (f) Loans under the measure may relate to both investment and working capital needs;
  - (g) Loans may be granted to undertakings that were not in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.
- (15) Safeguards for banks to channel State aid in the form of guarantee on loans to the real economy, whereas:
- (a) The UK will introduce certain safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. The relevant credit institutions or other financial intermediary will, to the largest extent possible, pass on the advantages of the public guarantee to the final beneficiaries;
  - (b) The relevant financial intermediary will be required to demonstrate that it operates a mechanism that ensures that the advantages are passed on to the largest extent possible to the final beneficiaries in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates;
  - (c) The effect of providing the guarantee to the lenders is that there will be a pass through to the largest extent possible of the economic benefits of the guarantee to the borrowers. Specifically, the pass through will take the form of lower costs charged to the borrowers. Guarantees will reduce the risk profile of lending to borrowers that would otherwise not have been able to provide equivalent guarantees. The terms of any agreements between public authorities and the lenders will be explicit that lenders are expected to reflect the lower risk profile of lending under the guarantees in the costs charged to borrowers. In particular, the guarantee legal agreements will legally oblige lenders to demonstrate to the aid grantor that the costs they charge take into account the guarantee;
  - (d) The reduction in costs, and therefore the pass through of the benefit to borrowers, will primarily be in the form of lower interest rates. It is therefore expected that the interest charged on the loan to the borrowers will be in the 3-6% range. With term loans pricing at the lower end of the spectrum and overdraft facilities at the higher end. There will therefore be pass-through to the largest extent possible of the economic benefits of the guarantee to the borrowers in the form of lower borrowing costs;
  - (e) Pass-through will also be ensured through the following mechanisms:
    - Competition – borrowers will be able to choose which of the eligible lenders they borrow from and are free to approach different lenders to find the lowest borrowing costs. As such, lenders will be strongly incentivised to compete to offer borrowers the most attractive terms to win borrowers' business, all banks will be eligible as potential lenders;

- Audit, verification and remediation – lenders will price the guaranteed loans based on their established pricing models. These models account for the security available and provided in the form of a guarantee from the aid grantor. The aid grantor will audit lenders' pricing models to ensure that the benefit of the guarantee has been factored into lenders' models. They will also test a sample of loans during the audit to ensure that the benefit of the guarantee has been passed through to the pricing of the loan made available to the borrower. If, following an audit, the aid grantor considers that a lender has not been adequately reflecting the benefit of the guarantee in the costs charged to borrowers, the aid grantor will require the lender to pay funds over to the disadvantaged borrowers;
  - (f) UK authorities do not intend to apply the guarantees to existing loans. In the event that it is intended in the future to extend the Scheme to existing loans, the UK Government will notify an alteration of the scheme that would include a pass-through mechanism for guarantees on existing loans.
- (16) The measure allows UK granting authorities to grant aid for R&D projects carrying out COVID-19 and other antiviral relevant research including projects having received a COVID-19-specific Seal of Excellence quality label under the Horizon 2020 SME-instrument subject to the following conditions, as set out in section 3.6 of the Temporary Framework:
- (a) The aid shall be granted in the form of direct grants, repayable advances or tax advantages by 31 December 2020;
  - (b) For R&D projects started as of 1 February 2020 or for projects having received a COVID-19-specific Seal of Excellence, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;
  - (c) Eligible costs may refer to all the costs necessary for the R&D project during its duration, including amongst others, personnel costs, costs for digital and computing equipment, for diagnostic tools, for data collection and processing tools, for R&D services, for pre-clinical and clinical trials (trial phases I-IV), for obtaining, validating and defending patents and other intangible assets, for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and medical equipment, disinfectants, and personal protective equipment; phase-IV trials are eligible as long as they allow further scientific or technological advance;

- (d) The aid intensity for each beneficiary may cover 100% of eligible costs for fundamental research and shall not exceed 80% of eligible costs for industrial research and experimental development<sup>7</sup>;
  - (e) The aid intensity for industrial research and experimental development may be increased by 15 percentage points, if more than one Member State supports the research project, or it is carried out in cross-border collaboration with research organisations or other undertakings;
  - (f) Aid under this measure may be combined with support from other sources for the same eligible costs, provided the combined aid does not exceed the ceilings for the different R&D categories set out in recital (16)(d) and (16)(e);
  - (g) The aid beneficiary shall commit to grant non-exclusive licences under non-discriminatory market conditions to third parties in the EEA and the UK;
  - (h) COVID-19 and other antiviral relevant research includes research into vaccines, medicinal products and treatments, medical devices and hospital and medical equipment, disinfectants, and protective clothing and equipment, and into relevant process innovations for an efficient production of the required products;
  - (i) Aid will not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.
- (17) The measure allows UK granting authorities to grant investment aid for testing and upscaling infrastructures that contribute to develop COVID-19 relevant products, provided the following conditions are met, as set out in section 3.7 of the Temporary Framework:
- (a) The aid will be granted for the construction or upgrade of testing and upscaling infrastructures required to develop, test and upscale, up to first industrial deployment prior to mass production, COVID-19 relevant medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators and protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; as well as data collection/processing tools;
  - (b) Aid will be granted in the form of direct grants, tax advantages or repayable advances by 31 December 2020;

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<sup>7</sup> As defined in paragraph (84), (85) and (86) of Article 2 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.

- (c) For projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;
- (d) The investment project shall be completed within six months after the date of granting the aid. An investment project is considered completed when it is accepted by the national authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants or tax advantages shall be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid;
- (e) Eligible costs are the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the products listed in point (a) above. The aid intensity shall not exceed 75% of the eligible costs;
- (f) The maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of aid granting or date of application of the tax advantage, or if the support comes from more than one Member State. If the aid is granted in form of a repayable advance, and the investment is completed within two months, or if the support comes from more than one Member State, an additional 15 percentage points may be granted;
- (g) The aid under this measure shall not be combined with other investment aid for the same eligible costs;
- (h) A loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance, or as an independent aid measure. The loss cover guarantee is issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project;
- (i) The price charged for the services provided by the testing and upscaling infrastructure shall correspond to the market price;
- (j) The testing and upscaling infrastructures shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings, which have financed at least 10 % of the investment costs may be granted preferential access under more favourable conditions;

- (k) Aid will not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.
- (18) The measure allows UK authorities to grant investment aid for the production of COVID-19 products provided the following conditions are met, as set out in section 3.8 of the Temporary Framework:
- (a) The investment aid will be granted for the production of COVID-19 relevant vaccines, medical products and treatments, medical devices and hospital and medical equipment, disinfectants and protective clothing and equipment, active pharmaceutical ingredients and active substances used for disinfectants, intermediary products, and raw chemical materials necessary for their production, diagnostic tools, data collection/processing tools;
  - (b) The aid will be granted in the form of direct grants, tax advantages or repayable advances by 31 December 2020;
  - (c) For projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;
  - (d) The investment project will be completed within six months after granting the aid. An investment project is considered completed when it is accepted by the aid granting authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants or tax advantages will be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid;
  - (e) Eligible costs relate to all investment costs necessary for the production of the products listed in point 39(a) of the Temporary Framework and to the costs of trial runs of the new production facilities. The aid intensity shall not exceed 80% of the eligible costs;
  - (f) The maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the aid granting or the date of application of the direct grant or tax advantage, or if the support comes from more than one Member State. If the aid is granted in the form of a repayable advance, and the investment is completed within two months or if the aid comes from more than one Member State, an additional 15 percentage points may be granted;
  - (g) Aid under this measure will not be combined with other investment aid for the same eligible costs;

- (h) A loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance or as an independent aid measure. The loss cover guarantee is issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project;
- (i) Aid may not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.

## **2.8. Cumulation**

- (19) 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.
- (20) The measure is separate from the measures approved by the Commission on 25 March 2020 in connection with the “Coronavirus Business Interruption Loan Scheme” (SA.56792 and SA.56794)<sup>8</sup>.
- (21) The UK authorities will ensure that cumulation conditions are respected across all UK measures under the Temporary Framework and across all granting authorities. The UK authorities confirmed that aid under section 3.2 and section 3.3 of the Temporary Framework must not be cumulated if the aid is granted for the same underlying loan and the overall aided loan amount per undertaking must not exceed the thresholds set out in point 25 d) or 27 d) of the Temporary Framework. Furthermore, the UK authorities confirm that aid granted under section 3.6, section 3.7 and section 3.8 of the Temporary Framework must not be cumulated if the aid concerns the same eligible costs<sup>9</sup>.
- (22) The UK’s Department for Business, Energy and Industrial Strategy (“BEIS”) Subsidy control team will require other Government Departments, including the

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<sup>8</sup> [https://ec.europa.eu/competition/state\\_aid/what\\_is\\_new/covid\\_19.html](https://ec.europa.eu/competition/state_aid/what_is_new/covid_19.html).

<sup>9</sup> Provided the rules under 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 (General Block Exemption Regulation) and under the different de minimis Regulations are respected, the temporary aid measures covered by this Communication may be cumulated in line with the cumulation rules set out in the General Block Exemption Regulation and in the different de minimis Regulations, namely, Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

Department responsible for Local Government, and the Devolved Administrations, to provide details of any measures that will operate under this national temporary framework. These granting authorities will be required to inform BEIS immediately upon their first use of the scheme and thereafter on a monthly basis and certify that their use of the scheme has complied with the terms of the measure.

- (23) At the moment that aid is being offered, granting authorities will need to quantify the amount of aid granted and beneficiaries will be required to sign a declaration on any other aid that they have received under schemes that operate under the legal base of the Temporary Framework.

## **2.9. Monitoring and reporting**

- (24) The UK 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.).
- (25) Furthermore, the UK will request, for this measure, all granting authorities which will use it as a basis to grant aid to ensure that details of all aid awards, and not just of those that fall within the transparency obligation of point 34 of the Temporary Framework, are recorded on the Commission's Transparency Award Module. This will ensure that all aid under the national temporary framework is transparent under one State aid number.

## **3. ASSESSMENT**

### **3.1. Legality of the measure**

- (26) By notifying the measure before putting it into effect, the UK authorities have respected their obligations under Article 108(3) TFEU<sup>10</sup>.

### **3.2. Existence of State aid**

- (27) 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.
- (28) The measure is imputable to the State, since it can be administered by any relevant aid granting authorities in the UK and it is based on the legal Acts applicable to these aid-granting authorities. It is financed through State resources, since it is financed by public funds.

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<sup>10</sup> As applicable under Article 131 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

- (29) The measure confers an advantage on its beneficiaries in the form of direct grants, repayable advances and tax advantages, guarantees on loans, subsidised interest rates, guarantees and loans channelled through credit institutions or other financial institutions, short-term export credit insurance, direct grants, repayable advances or tax advantages for COVID-19 relevant research and development, investment for testing and upgrading infrastructures and investment for the production of COVID-19 relevant products. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular non-financial SME and large companies that were not in difficulty on 31 December 2019 (within the meaning of the General Block Exemption Regulation).
- (31) 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.
- (32) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The UK authorities do not contest that conclusion.

### **3.3. Compatibility**

- (33) 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.
- (34) 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*”.
- (35) 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*”. Furthermore, the Commission considers that “*beyond ensuring access to liquidity and finance, it is also essential to facilitate COVID-19 relevant research and development, to support the construction and upgrade of testing facilities of COVID-19 relevant products, as well as the setting up of additional capacities for the production for products needed to respond to outbreak*”.
- (36) The measure aims at facilitating the access of firms to external finance at a time when 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.

(37) The measure is one of a series of measures conceived at national level by the UK authorities to remedy a serious disturbance in their economy. The importance of the measure to support businesses 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 UK economy. Furthermore, the measure has been designed to meet the requirements of each specific category of aid described in Section 3.1 to 3.8 of the Temporary Framework and the requirements for aid in the form of guarantees channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

(38) 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:

*For direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity:*

(39) The measure notified by the UK meets all the conditions provided for by the Temporary Framework for ‘temporary limited amounts of aid’ in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity:

- The maximum aid amount per undertaking in the notified scheme, with the exception of undertakings in the fishery and aquaculture sector and active in the primary production of agriculture products, will not exceed EUR 800 000 as laid down in point 22(a) Temporary Framework;
- The measure is granted on the basis of an aid scheme with an estimated budget of EUR 40 billion, hence the condition set out in point 22(b) Temporary Framework is met;
- The measure will only be granted to undertakings which were not in difficulty on 31 December 2019; the measure therefore complies with point 22(c) of the Temporary Framework;
- The measure will be granted no later than 31 December 2020, hence the measure complies with point 22(d) of the Temporary Framework;
- The measure granted to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the SMEs concerned, hence the measure complies with point 22(e) Temporary Framework;
- The maximum aid does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products as laid down in point 23(a) Temporary Framework;
- Aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products

put on the market, hence the measure complies with point 23(b) Temporary Framework;

- 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, hence the measure complies with point 23(c) Temporary Framework;
- Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of Temporary Framework, the UK committed to ensure, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected; hence the condition set out in point 23(d) Temporary Framework is met;
- All other conditions set out in point 22 of the Temporary Framework, which are not expressly derogated by point 23 of the Temporary Framework, apply to undertakings active in the agriculture, fisheries and aquaculture sectors, hence the condition set out in point 23(e) is met;
- The UK authorities committed to comply with all the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework.

*For guarantees on loans:*

(40) The measure notified by the UK meets all the conditions provided for by the Temporary Framework for guarantees on loans:

- The measure sets a flat guarantee premium using the flexibility provided by point 25(b). The amount of the guarantee premium will be determined by the total duration of the loan and the category of borrower (SME or large enterprise). The guarantee premium will be fixed for the duration of the loan and will be set at the minimum level applicable to the time bucket, as stipulated in point 25(a) of the Temporary Framework, corresponding to the maximum duration of the loan (see recital (13)(a)). The measure therefore complies with point 25(b) of the Temporary Framework.
- Guarantees can be granted under the measure by 31 December 2020 at the latest (recital **Error! Reference source not found.**). The measure therefore complies with point 25(c) of the Temporary Framework.
- If loans with a maturity beyond 31 December 2020 are guaranteed, the maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 25(d) of the Temporary Framework (recital **Error! Reference source not found.**). For loans with a maturity until 31 December 2020, the same maximum amounts per beneficiary (point 25(d) of the Temporary Framework) will be applied and the proportionality of the aid remains assured (recital **Error! Reference source not found.**) in line with point 25(e) of the Temporary Framework.

- The measure limits the duration of the guarantees to maximum six years (recital **Error! Reference source not found.**). Those guarantees cover only 90% of the loan principal and losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital **Error! Reference source not found.**). The measure therefore complies with point 25(f) of the Temporary Framework.
- Guarantees granted under the measure relate to investment and working capital loans (recital **Error! Reference source not found.**). The measure therefore complies with point 25(g) of the Temporary Framework.
- Firms in difficulty (situation as of 31 December 2019) within the meaning of the GBER or other relevant regulations are excluded from benefitting from the measure (recital (13)(i)). The measure therefore complies with point 25(h) of the Temporary Framework.
- The UK authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recitals (24) and (24)).
- The applicable cumulation rules are respected (recitals (19) to (23)).
- Lastly, 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 (recital **Error! Reference source not found.**).

*For subsidised interest rates for loans:*

- (41) The measure notified by the UK meets all the conditions provided for by the Temporary Framework for subsidised interest rates for loans:
- The applicable interest rates are equal to the base rate (1 year IBOR or equivalent as published by the Commission)<sup>11</sup> applicable on 1 January 2020 plus a credit margin as set out in the table in paragraph 27(a) of the Temporary Framework, differentiating SMEs and for large enterprises (recitals (14)(a) to (14)(c)(14)(b)). The measure therefore complies with point 27(a) of the Temporary Framework.
  - The loan contracts are signed by 31 December 2020 at the latest and are limited to maximum 6 years (recital (14)(d)). The measure therefore complies with point 27(c) of the Temporary Framework.
  - For loans with a maturity beyond 31 December 2020, the maximum loan amount per beneficiary is limited in line with point 27(d) of the Temporary Framework (recital (14)(e)). For loans with a maturity until 31 December

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<sup>11</sup> Base rates calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p. 6).

2020, the maximum amount as described in point 27(d) of the Temporary Framework will also be applied (recital (14)(d)).

- The loans relate to investment and working capital needs (recital (14)(f)). The measure therefore complies with point 27(f) of the Temporary Framework.
- Firms in difficulty (situation as of 31 December 2019) within the meaning of GBER or relevant regulations are excluded from benefitting from the measure (recital (14)(g)). The measure therefore complies with point 27(g) of the Temporary Framework.
- The UK authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recitals (24) to (24)).
- The applicable cumulation rules are respected (recitals (19) to (23)).

Safeguards for banks to channel State aid in the form of guarantee on loans to the real economy:

(42) The measure notified by the UK meets all the conditions provided for by section 3.4 of the Temporary Framework for aid in the form of guarantees channelled through credit institutions or other financial institutions:

- For aid that will be channelled through credit institutions or other financial institutions, the measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition to comply with the conditions listed in Section 3.4 of the Temporary Framework.
- In particular, the measure complies 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. As explained by the UK authorities, the pass through will be achieved through:
  - a. lower interest rates and fees charged to borrowers (by allowing competition between the eligible lenders for originating loans guaranteed under the measure, thus incentivising the banks to offer attractive terms to the borrowers) (recital (15));
  - b. a contractual obligation on lenders to demonstrate that the costs they charge take into account the guarantee, subject to audits by the public authority to ensure that lenders' pricing models achieve this aim. If an audit shows that a lender has not been adequately reflected the benefit of the guarantee in the costs it charged to borrowers, the lender will be required to pay a compensation to the disadvantaged borrowers (recital (15)).

For aid for COVID-19 relevant research and development:

- (43) The measure notified by the UK meets all the conditions provided for by the Temporary Framework for COVID-19 relevant research and development:
- As described in recital (16)(a), the aid shall be granted in the form of direct grants, repayable advances or tax advantages. The measure therefore complies with point 35(a) of the Temporary Framework.
  - As described in recital (16)(b), for R&D projects started as of 1 February 2020 or for projects having received a COVID-19-specific Seal of Excellence, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid. The measure therefore complies with point 35(b) of the Temporary Framework.
  - As described in recital (16)(c), eligible costs may refer to all the costs necessary for the R&D project during its duration, including amongst others, personnel costs, costs for digital and computing equipment, for diagnostic tools, for data collection and processing tools, for R&D services, for pre-clinical and clinical trials (trial phases I-IV), for obtaining, validating and defending patents and other intangible assets, for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and medical equipment, disinfectants, and personal protective equipment; phase-IV trials are eligible as long as they allow further scientific or technological advance. The measure therefore complies with point 35(c) of the Temporary Framework.
  - As described in recital (16)(d), the aid intensity for each beneficiary may cover 100% of eligible costs for fundamental research and does not exceed 80% of eligible costs for industrial research and experimental development; The measure therefore complies with point 35(d) of the Temporary Framework.
  - As described in recital (16)(e), the aid intensity for industrial research and experimental development can be increased by 15 percentage points, if more than one Member State supports the research project, or it is carried out in cross-border collaboration with research organisations or other undertakings. The measure therefore complies with point 35(e) of the Temporary Framework.
  - As described in recital (16)(f), aid under this measure can be combined with support from other sources for the same eligible costs, provided the combined aid intensity does not exceed the ceilings for the different R&D categories set out in recitals (16)(d) and (16)(e). The measure therefore complies with point 35(f) of the Temporary Framework.
  - As described in recital (16)(g), the aid beneficiary must commit to grant non-exclusive licences under non-discriminatory market conditions to

third parties in the EEA and the UK. The measure therefore complies with point 35(g) of the Temporary Framework.

- As described in recital (16)(i), aid will not be granted to undertakings that were in difficulty (within the meaning of the General Block Exemption Regulation17) on 31 December 2019. The measure therefore complies with point 35(h) of the Temporary Framework.

*For aid for testing and upscaling infrastructures:*

(44) The measure notified by the UK meets all the conditions provided for by the Temporary Framework for testing and upgrading infrastructures:

- As described in recital (17)(a), the aid is granted for the construction or upgrade of testing and upscaling infrastructures required to develop, test and upscale, up to first industrial deployment prior to mass production, COVID-19 relevant medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators and protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; as well as data collection/processing tools. The measure therefore complies with point 37(a) of the Temporary Framework.
- As described in recital (17)(b), aid will be granted in the form of direct grants, tax advantages or repayable advances by 31 December 2020. The measure therefore complies with point 37(b) of the Temporary Framework.
- As described in recital (17)(c), for projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid. The measure therefore complies with point 37(c) of the Temporary Framework.
- As described in recital (17)(d), investment projects shall be completed within six months after the date of granting the aid. An investment project is considered completed when it is accepted by the national authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants or tax advantages shall be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid. The measure therefore complies with point 37(d) of the Temporary Framework.
- As described in recital (14), eligible costs will be the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the medicinal products listed in point 37(a) of the Temporary

Framework, as set out above. The aid intensity shall not exceed 75% of the eligible costs. The measure therefore complies with point 37(e) of the Temporary Framework.

- As described in recital **Error! Reference source not found.**, the maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of application for the direct grant or tax advantage, or if the support comes from more than one Member State. If the aid is granted in form of a repayable advance, and the investment is completed within two months, or if the support comes from more than one Member State, an additional 15 percentage points can be granted. The measure therefore complies with point 37(f) of the Temporary Framework.
- As described in recital **Error! Reference source not found.**, aid under this measure cannot be combined with other investment aid for the same eligible costs. The measure therefore complies with point 37(g) of the Temporary Framework.
- As described in recital **Error! Reference source not found.**, a loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance, or as an independent aid measure. The loss cover guarantee is issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project. The measure therefore complies with point 37(h) of the Temporary Framework.
- As described in recital **Error! Reference source not found.**, the price charged for the services provided by the testing and upscaling infrastructure shall correspond to the market price. The measure therefore complies with point 37(i) of the Temporary Framework.
- As described in recital **Error! Reference source not found.**, the testing and upscaling infrastructures shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings which have financed at least 10 % of the investment costs may be granted preferential access under more favourable conditions. The measure therefore complies with point 37(j) of the Temporary Framework.
- As described in recital **Error! Reference source not found.**, aid will not be granted to undertakings that were in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019. The measure therefore complies with point 37(k) of the Temporary Framework.

For aid for the production of COVID-19 relevant products;

- (45) The measure notified by the UK meets all the conditions provided for by the Temporary Framework 19 for aid for the production of COVID-19 relevant products:
- As described in recital **Error! Reference source not found.**, the investment aid will be granted for the production of COVID-19 relevant vaccines, medical products and treatments, medical devices and hospital and medical equipment, disinfectants and protective clothing and equipment, active pharmaceutical ingredients and active substances used for disinfectants, intermediary products, and raw chemical materials necessary for their production, diagnostic tools, data collection/processing tools. The measure therefore complies with point 39(a) of the Temporary Framework.
  - As described in recital **Error! Reference source not found.**, the aid will be granted in the form of direct grants, tax advantages or repayable advances by 31 December 2020. The measure therefore complies with point 39(b) of the Temporary Framework.
  - As described in recital **Error! Reference source not found.**, for projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid. The measure therefore complies with point 39(c) of the Temporary Framework.
  - As described in recital **Error! Reference source not found.**, the investment project will be completed within six months after the date of granting the aid. An investment project is considered completed when it is accepted by the aid granting authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants and tax advantages will be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid. The measure therefore complies with point 39(d) of the Temporary Framework.
  - As described in recital **Error! Reference source not found.**, eligible costs relate to all investment costs necessary for the production of the products listed in point 40(a) of the Temporary Framework and to the costs of trial runs of the new production facilities. The aid intensity shall not exceed 80% of the eligible costs. The measure therefore complies with point 39(e) of the Temporary Framework.
  - As described in recital **Error! Reference source not found.**, the maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of application for the direct

grant or tax advantage, or if the support comes from more than one Member State. If the aid is granted in the form of a repayable advance, and the investment is completed within two months, or if the support comes from more than one Member State, an additional 15 percentage points may be granted. The measure therefore complies with point 39(f) of the Temporary Framework.

- As described in recital **Error! Reference source not found.**, aid under this measure will not be combined with other investment aid. The measure therefore complies with point 39(g) of the Temporary Framework.
- As described in recital **Error! Reference source not found.**, the loss cover guarantee will be issued within one month after the undertaking has applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project. The measure therefore complies with point 39(h) of the Temporary Framework.
- As described in recital **Error! Reference source not found.**, aid may not be granted to undertakings that were in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019. The measure therefore complies with point 39(i) of the Temporary Framework.

#### 4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU

- (46) Without prejudice to the possible application of the BRRD in the event that an institution benefiting from the measures meets the conditions for the application of that Directive, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of the BRRD.
- (47) 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.<sup>12</sup> 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.

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<sup>12</sup> Points 6 and 29 of the Temporary Framework.

- (48) Moreover, as indicated in recital (15) above, the measure introduces safeguards in relation to any possible indirect aid 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 advantages provided by the measure to the final beneficiaries.
- (49) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD.

## 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

