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PUBLIC VERSION

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Subject: State Aid SA.56840 (2020/N) – Austria
COVID-19: Austrian liquidity assistance scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 31 March 2020, Austria notified aid in the form of *direct grants, repayable advances or tax advantages, guarantees on loans and subsidised interest rates* (Hilfsmaßnahmen für die Wirtschaft in Österreich, "the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework").[1]

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

(3) Austria exceptionally agrees to waive its rights deriving from Article 342 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 MEASURE

(4) Austria considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the

[1] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak as adopted on 19 March 2020 (C(2020) 1863) and its amendment (C(2020) 2215) as adopted on 3 April 2020.

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

Seiner Exzellenz Herrn Alexander Schallenberg
Bundesminister für europäische und internationale Angelegenheiten
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damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak.

(5) 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

(6) The measure is the Austrian liquidity assistance scheme designed by the Austrian Federal Ministry of Finance and provides aid in the form of:

(a) 'Temporary limited amounts of aid' in the form of direct grants, guarantees on loans and repayable advances;

(b) Guarantees on loans;

(c) Subsidised interest rates on loans.

2.2. National legal basis

(7) The legal basis for the measure is the law establishing a crisis fund to provide financial assistance (COVID-19-Fonds-Gesetz) introduced by COVID-19 Gesetz (BGBl. I Nr. 12/2020)[3] and the amendment of the law establishing a holding company to facilitate the portfolio reduction of wind-down units (ABBAG-Gesetz) amended by 2. COVID-19 Gesetz (BGBl. I Nr. 12/2020)[4] and by 3. COVID-19 Gesetz (BGBl. I Nr. 23/2020)[5]. The regulation[6] by the Austrian Federal Ministry of Finance introducing guidelines to establish the Austrian liquidity assistance scheme will be published in the Official Journal of the Republic of Austria as soon as the European Commission has approved the measure.

2.3. Administration of the measure

(8) COVID-19 Finanzierungsagentur des Bundes GmbH ("COFAG") is responsible for administering the measure. COFAG is a special purpose vehicle to grant liquidity assistance measures foreseen by the guidelines and is a subsidiary of ABBAG-Abbaumanagementgesellschaft des Bundes GmbH established under private law by the Ministry of Finance.

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3 https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20011074

4 https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008907

5 https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2020_I_23/BGBLA_2020_I_23.html

6 Verordnung des Bundesministers für Finanzen gemäß § 3b Abs. 3 des ABBAG-Gesetzes betreffend Richtlinien über die Ergreifung von finanziellen Maßnahmen, die zur Erhaltung der Zahlungsfähigkeit und zur Überbrückung von Liquiditätsschwierigkeiten von Unternehmen im Zusammenhang mit der Ausbreitung des Erregers SARS-CoV-2 und den dadurch verursachten wirtschaftlichen Auswirkungen geboten sind

2.4. Budget and duration of the measure

(9) The Austrian authorities confirm that no more than EUR 15 billion in aid will be granted under the measure.

(10) Aid may be granted under the measure as from its approval until 31/12/2020.

2.5. Beneficiaries

(11) The final eligible beneficiaries of the measure are all undertakings registered and active in Austria with the exception of banks and other financial institutions. Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation ("GBER"), the Agricultural Block Exemption Regulation ("ABER") or the Fisheries Block Exemption Regulation ("FIBER") [7] on 31 December 2019. Aid is granted under the measure by the COFAG. Banks and other financial institutions as financial intermediaries are involved in the administration of the measure.

2.6. Sectoral and regional scope of the measure

(12) The measure is open to all sectors. However, banks and other financial institutions are excluded as eligible final beneficiaries. It applies to the whole territory of Austria.

2.7. Basic elements of the measure

(13) 'Temporary limited amounts of aid' in the form of direct grants, guarantees on loans and repayable advances, with the following conditions:

(a) the aid will not exceed EUR 800 000 per undertaking; by way of derogation, the aid will not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector[8] or EUR 100 000 per undertaking active in the primary production of agricultural products[9];

(b) the aid is granted on the basis of a scheme with an estimated budget; Austria has indicated that the budget for 'temporary limited amounts of aid' will probably not exceed EUR 8 billion. Austria indicated that the impact of the COVID-crisis is still difficult to quantify, and that in

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[7] As defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Article 2(14) of the Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193 of 1.7.2014, p.1, and Article 3(5) of the Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369 of 24 December 2014, p. 37.

[8] 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.

[9] All products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector.

particular the demand for 'temporary limited amounts of aid' is difficult to estimate. In case the actual demand for those amounts of aid is less than this estimated budget, the non-used amounts will be shifted to the instruments under section 3.2 and 3.3. of the Temporary Framework.

(c) the aid granted to undertakings active in the processing and marketing of agricultural products[10] 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 undertakings concerned;

(d) where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Austria will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities;

(e) 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[11];

(f) the aid is granted no later than 31 December 2020;

(g) direct grants, guarantees on loans and repayable advances up to EUR 800 000 per undertaking can be cumulated with other aid granted under the measure.

(14) Aid in the form of guarantees on loans, with the following conditions:

(a) The measure will provide guarantees only for new investment or working capital loans with maturities from three months up to a maximum of six years.

(b) For loans with a maturity beyond 31 December 2020, the overall amount of loans per beneficiary shall not exceed:

– double the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertaking's site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or

– 25% of the beneficiary's total turnover in 2019; or

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[10] As defined in Article 2(6) and Article 2(7) of Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1.

[11] Commission Regulation (EC) No (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 90, 28.6.2014, p. 45.

– with appropriate justification and based on self-certification by the beneficiary of its liquidity needs , the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises.

(c) For loans with a maturity until 31 December 2020, the amount of the loan principal may be higher than under point 25(d) of the Temporary Framework with appropriate justification and provided that the proportionality of the aid remains assured. Specifically, the level of financial measures provided for under the scheme is always based on the company's liquidity needs. The actual liquidity needs must be presented in the application and supported with reasons and plausibility checks. The actual amount of the financial measure is therefore always limited, taking into account the maximum amounts defined by the Commission. In other words, if the financial measure ends on 31.12.2020, it can never be higher than the liquidity needs for that period. Austria therefore does not grant financial measures, which are higher than the justified liquidity needs of the company for this period.

(d) Guarantee premiums are set per individual loans at a minimum level, which shall increase progressively as the duration of the guaranteed loan increases, as set out in the following table. Specifically, the amount of the guarantee premium will be determined by the duration of the guarantee and the category of borrower (SME or Large Enterprise).

Type of recipient	*For 1st year*	*For 2nd-3rd year*	*For 4th -6th years*
SMEs	*25bps*	*50bps*	*100bps*
Large enterprises	*50bps*	*100bps*	*200bps*

(e) The Austrian authorities confirm that guarantees will be granted by 31 December 2020 at the latest.

(f) The guarantee coverage will be limited to 90% of the loan amount. Guarantees shall cover the full maturity of the underlying instrument.

(g) Losses under the guarantee are sustained proportionally and under the same conditions, by the financial intermediary and COFAG. 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.

(h) Austria confirms that the mobilisation of the guarantee is contractually linked to specific conditions which have to be agreed between the parties when the guarantee is initially granted.

(i) The measure will introduce certain safeguards in relation to the possible indirect aid in favour of financial intermediaries. Financial intermediaries will, to the largest extent possible, pass on the advantages of the public guarantee to the final beneficiaries. More specifically, all financial intermediaries are eligible under the measure for guarantees, which ensures competition between financial intermediaries and enables final beneficiaries to compare different offers by different financial intermediaries. Furthermore, the measure introduces a cap on the interest rate of the underlying loan of 1 % per annum.

(15) Aid in the form of subsidised interest rates on loans, with the following conditions:

(a) Loans will be granted in order to fund investment or working capital with maturities from three months up to a maximum of six years.

(b) The 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[12]) applicable on 1 January 2020 plus the credit risk margins as set-out in the table below. The minimum all in interest rate (base rate plus credit risk margins) shall be at least 10 basis points ("bps") per annum.

Type of recipient	*Credit risk margin for 1st year*	*Credit risk margin for a 2nd - 3rd year*	*Credit risk margin for 4th-6th year*
SMEs	*25bps*	*50bps*	*100bps*
Large enterprises	*50bps*	*100bps*	*200bps*

(c) The Austrian authorities confirm that loan contracts will be signed by 31 December 2020 at the latest.

(d) For loans with a maturity beyond 31 December 2020, the overall amount of the loans per beneficiary shall not exceed:

– double the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertaking's site but formally in the payroll of subcontractors) for 2019 or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or

– 25% of the beneficiary's total turnover in 2019; or

[12] 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.

– with appropriate justification and based on self-certification by the beneficiary of its liquidity needs[13], the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises;

(e) For loans with a maturity until 31 December 2020, the amount of the loan principal per beneficiary may be higher than under point 27(d) of the Temporary Framework with appropriate justification and provided that the proportionality of the aid remains assured. Specifically, the level of financial measures provided for under the scheme is always based on the company's liquidity needs. The actual liquidity needs must be presented in the application and supported with reasons and plausibility checks. The actual amount of the financial measure is therefore always limited, taking into account the maximum amounts defined by the Commission. In other words, if the financial measure ends on 31.12.2020, it can never be higher than the liquidity needs for that period. Austria therefore does not grant financial measures, which are higher than the justified liquidity needs of the company for this period.

(f) The aid is channelled through credit institutions, but the credit institution only acts as a trustee for the public entity which is granting the loan. The financial intermediaries are acting as a pass through vehicle. This implies that the financing conditions between the bank and the final beneficiary reflect the financing conditions under the measure. Any remuneration for the financial intermediaries would have to be negotiated but should be as low as possible. The credit institution will not charge the borrower a higher administration fee than the standard level that would be charged for a loan of the same size without the State subsidized rate scheme. Thus, it is ensured that the advantage is passed on to the largest extent possible to the final beneficiaries by the financial intermediaries.

2.8. Cumulation

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

(17) The Austrian authorities will ensure that cumulation conditions are respected across all Austrian measures under the Temporary Framework and across all granting authorities. The Austrian authorities confirmed that aid granted under section 3.2 of the Temporary Framework will not be cumulated with other aid granted for the same underlying loan principal under section 3.3 of the Temporary Framework, and vice versa if the overall loan amount per undertaking exceeds the thresholds set out in point 25(d) or 27(d) of the Temporary Framework. In as far as one and the same beneficiary may benefit from multiple measures under the Temporary Framework in parallel, the Austrian authorities confirm that it is ensured that the maximum thresholds concerning overall amount of loans per beneficiary as specified in points 25(d) and 27(d) of the Temporary Framework are respected. Finally, the Austrian authorities confirmed that different forms of

[13] The liquidity needs may include both working capital and investment costs.

aid under section 3.1. of the Temporary Framework can be cumulated as long as they do not exceed a total of EUR 800 000.

2.9. Monitoring and reporting

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

3. ASSESSMENT

3.1. Lawfulness of the measure

(19) By notifying the measure before putting it into effect, the Austrian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(20) 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.

(21) The measure is imputable to the State, since it is administered by COFAG and it is based on the legislative acts described in recital (7). It is financed through State resources, since it is financed from the Federal Budget.

(22) The measures confers an advantage on its beneficiaries in the form of direct grants, repayable advances, guarantees on loans or subsidised interest rates (recital(6)). The measure thus relieves those beneficiaries of costs which they would have to bear under normal market conditions.

(23) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings, active in Austria, that were not already in difficulty on 31 December 2019 as described in recital (11) and that are not banks and other financial institutions.

(24) 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.

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

3.3. Compatibility

(26) 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.

(27) 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*".

(28) 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*".

(29) 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.

(30) The measure is one of a series of measures conceived at national level by the Austrian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending by private banks to enterprises during the COVID-19 outbreak is widely accepted and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Austrian economy. Furthermore, the measure has been designed to meet the requirements of each specific category of aid described in Section 3.1 to 3.3 of the Temporary Framework and the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

(31) 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:

<u>*For 'temporary limited amounts of aid':*</u>

(32) The measure meets all the conditions provided for by section 3.1 of the Temporary Framework for 'temporary limited amounts of aid' in the form of direct grants, repayable advances and guarantees:

(a) The aid will be granted in form of direct grants, repayable advances or guarantees on loans as laid down in point 22(a) of the Temporary Framework.

(b) The maximum aid amount per undertaking (EUR 800,000) will not exceed the cash equivalent of EUR 800 000 as laid down in point 22(a) of the Temporary Framework;

(c) The estimated budget is indicatively provided by Austria. Therefore, the condition of point 22(b) of the Temporary Framework is considered to be met.

(d) In compliance with point 22(c) of the Temporary Framework, the aid will only be granted to undertakings which were not in difficulty on 31 December 2019;

(e) The aid will be granted no later than 31 December 2020; hence the condition set out in point 22(d) of the Temporary Framework is met;

(f) Undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers or put on market by such producers, hence the condition set out in point 22(e) of the Temporary Framework is met;

(g) The maximum aid amount per undertaking 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) of the Temporary Framework;

(h) 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, as laid down in point 23(b) of the Temporary Framework;

(i) Aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, point (1) (a) to (k), of Commission Regulation (EU) No 717/201420, as laid down in point 23(c) of the Temporary Framework;

(j) Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Austria will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities.

For guarantees on loans:

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

(a) The measure sets minimum levels for guarantee premiums, applied progressively from 25 to 100 bps for SMEs and from 50 to 200 bps for large enterprises on loans with a maturity of up to 6 years (recitals (14)(a) and(14)(d)). It therefore complies with the guidance in point 25(a) of the Temporary Framework.

(b) Guarantees can be granted under the measure by 31 December 2020 at the latest (recital (14)(e)). The measure therefore complies with point 25(c) of the Temporary Framework.

(c) For loans with a maturity beyond 31 December 2020, 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 (14)(b)). For loans with a maturity until 31 December 2020, the higher amount of the loan principal is justified appropriately and the proportionality of the aid remains assured (recital (14)(c)) in line with point 25(e) of the Temporary Framework. Specifically, the Commission considers such aid to be proportionate in the present case, since it includes a maximum threshold that is linked to the beneficiary's declared liquidity needs, which will be verified during the application. Moreover, such threshold provides administrative simplification in the current urgent circumstances, in order to disburse effectively the aid.

(d) The measure limits the duration of the guarantees to maximum 6 years (recital (14)(a)). 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 (recitals (14)(f) to (14)(g)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (14)(g)). The measure therefore complies with point 25(f) of the Temporary Framework.

(e) Guarantees granted under the measure relate to investment and working capital loans (recital (14)(a)). The measure therefore complies with point 25(g) of the Temporary Framework.

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

(g) 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. The Commission takes note that all financial intermediaries are eligible under the scheme for guarantees, which ensures competition between financial intermediaries and enables final beneficiaries to compare different offers by different financial intermediaries. Furthermore the Commission takes into account that the measure introduces a cap on the interest rate of the underlying loan of 1 % per annum. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (14)(i)). The measure therefore complies with points section 3.4 of the Temporary Framework

(h) The Austrian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (18)).

(i) The applicable cumulation rules are respected (recital (16)).

(j) 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 (14)(h)).

For subsidised interest rates for loans:

(34) The measure notified by the Austria meets all the conditions provided for by the Temporary Framework for subsidised interest rates for loans:

(a) The applicable interest rates are equal to the base rate (1 year IBOR or equivalent as published by the Commission) applicable on 1 January 2020 plus a credit margin as set out in the table in point 27(a) of the Temporary Framework, differentiating SMEs and for large enterprises (recital(15)(b)). The measure therefore complies with point 27(a) of the Temporary Framework.

(b) The loan contracts are signed by 31 December 2020 at the latest and are limited to maximum 6 years (recitals (15)(a) and (15)(c)). The measure therefore complies with point 27(c) of the Temporary Framework.

(c) 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 (15)(d)). For loans with a maturity until 31 December 2020, any higher amount of the loan principal is justified appropriately and the proportionality of the aid remains ensured in line with point 27(e) of the Temporary Framework (recital(15)(e)). Specifically, the Commission considers such aid to be proportionate in the present case, since it includes a maximum threshold that is linked to the beneficiary's declared liquidity needs, which will be verified during the application. Moreover, such threshold provides administrative simplification in the current urgent circumstances, in order to disburse effectively the aid.

(d) The loans relate to investment and working capital needs (recital (15)(a)). The measure therefore complies with point 27(f) of the Temporary Framework.

(e) Firms already in difficulty on 31 December 2019 within the meaning of GBER, ABER and FIBER are excluded from benefitting from the measure (recital (11)). The measure therefore complies with point 27(g) of the Temporary Framework.

(f) 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. The Commission positively notes that the financial intermediaries are acting as a pass through vehicle ensuring that the advantage is passed on to the largest extent possible to the final beneficiaries by the financial intermediaries. The Commission also takes into account that any remuneration for the financial intermediaries would have to be negotiated but should be as low as possible. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (15)(f)). The measure therefore complies with points 28 to 31 of the Temporary Framework.

(g) The Austrian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (18)).

(h) The applicable cumulation rules are respected (recital (16)).

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

(35) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"BRRD"**)[14] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (**"SRMR"**),[15] 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.

(36) 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.[16] Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.

(37) Moreover, as indicated in recital (33)(g) and (34)(f) 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.

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

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

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

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

5. CONCLUSION

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

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President