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SENSITIVE* : *COMP Operations*

Subject: State Aid SA.57068 (2020/N) – Italy
Loan guarantees and grants under the ISMEA Guarantee Fund according to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak

Excellency,

1. PROCEDURE

- (1) By electronic notification of 17 April 2020, Italy notified aid in the form of guarantees on loans and grants covering the value of the guarantee premiums (“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 Italian authorities confirm that the notification does not contain confidential information.
- (3) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958², and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (4) The measure is expressly based on Article 107(3)(b) TFEU, as interpreted by Section 2 of the Temporary Framework.

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

¹ Communication from the Commission - Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication C(2020) 2215 final, 3 April 2020, OJ C 112I, 4.4.2020, p. 1.

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

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- (5) 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 damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak.
- (6) The containment initiatives³ introduced by the Italian authorities to limit the spread of the disease have led to a double negative shock: on the demand side, with the cancellation or postponement of spending decisions, and the elimination of tourist flows; on the supply side, with the closure of most commercial activities and the mandatory stop of most production activities. The main economic sectors that drive the Italian economy are in a standstill. The measure aims to preserve the continuity of the economic activity in the agricultural, forestry, fishery and aquaculture sectors during and after the outbreak. It is designed to ensure that the banking system provides micro, small and medium enterprises in these sectors with the necessary liquidity to overcome the current economic difficulties.

2.1. The nature and form of aid

- (7) The measure provides aid in the form of guarantees on loans and grants covering the value of the premiums on those guarantees.

2.2. National legal basis

- (8) The legal basis for the measure is Article 13, paragraphs 1, 2 and 11 of the Italian Decree Law n. 23 of 8 April 2020⁴ (the "Decree Law").

2.3. Administration of the measure

- (9) The Italian Ministry of Agricultural, Food and Forestry Policies is responsible for granting the measure. The measure will be administered by the Institute of Services for the Agricultural and Food market (*Istituto di Servizi per il Mercato Agricolo Alimentare - ISMEA*)⁵ under the ISMEA Guarantee Fund (the "Guarantee Fund"), a public instrument under the supervision of the Ministry of Agricultural, Food and Forestry Policies.

2.4. Budget and duration of the measure

- (10) The Italian authorities confirmed that no more than EUR 100 million in aid will be granted under the measure.

³ For example, decree law no. 6 of 23 February 2020, including further implementing provisions laid down in the Decrees of the President of the Council of Ministers of 23 February 2020, 25 February 2020, 1 March 2020, 4 March 2020, 8 March 2020, 9 March 2020 and 11 March 2020.

⁴ Published in the *Gazzetta Ufficiale* n. 94 of 8 April 2020. The measure will be implemented and aid will be granted only following approval by the Commission.

⁵ Pursuant to Article 17 of Legislative Decree 29 March 2004, n. 102.

- (11) Aid may be granted under the measure as from its approval until 31 December 2020.

2.5. Beneficiaries

- (12) The beneficiaries of the measure are small and medium sized enterprises (“SME”)⁶ operating in Italy in the agricultural, forestry, fishery and aquaculture sectors, which face a liquidity shortage, due to the containment initiatives adopted by Italy.
- (13) Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the Agricultural Block Exemption Regulation (“ABER”)⁷ and the Fisheries Block Exemption Regulation (“FIBER”)⁸ on 31 December 2019.
- (14) Aid is granted under the measure through either credit institutions or other financial institutions authorised to operate in Italy (the “financial intermediaries”⁹).

2.6. Sectoral and regional scope of the measure

- (15) The measure is open to SMEs active in the agricultural, forestry, fishery and aquaculture sectors. It applies to the whole territory of Italy.

2.7. Basic elements of the measure

- (16) The measure provides aid to the eligible beneficiaries in the form of (a) guarantees under Section 3.2 of the Temporary Framework, (b) guarantees under Section 3.1 of the Temporary Framework, and (c) grants under Section 3.1 of the Temporary Framework. The three elements of this measure are described below.

2.7.1. Guarantees under Section 3.2 of the Temporary Framework

- (17) The guarantees under Section 3.2 of the Temporary Framework are provided to the financial intermediaries, banks and mutual guarantee institutions¹⁰, in relation to new and existing loans.
- (18) The loans covered by the guarantees shall have the following features:

- (a) The loans are working capital or investment loans;

⁶ As defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, [2003/361/EC](#), OJ L 124/36, 20.05.2013.

⁷ 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.

⁸ 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.

⁹ Banks and entities authorized to lending activities.

¹⁰ An example of such mutual guarantee institutions are the “confidi (*consorzi di garanzia collettiva dei fidi*), regulated by law n. 326 of 24 November 2003 and authorised to operate on the basis of the registration request submitted under Article 4 of [Provvedimento della Banca d'Italia](#), 14 May 2009.

- (b) The loans can be granted no earlier than three months before the request for the guarantee and, in any event, not earlier than 31 January 2020, or restructured after the adoption of the Decree Law regardless of the time of the grant;
- (c) The maximum loans' maturity is set at six years;
- (d) The amount of the loan per undertaking does not exceed whichever of the following is the highest:
 - double the annual wage bill of the beneficiary for 2019, as resulting from the approved financial statements or from certified data, if the financial statement has not been approved yet. In the case of undertakings created after 31 December 2018, the maximum loan shall not exceed the estimated annual wage bill for the first two years in operation; or
 - 25% of the total turnover of the beneficiary in 2019, as resulting from the approved financial statements or from data which are self-certified by the beneficiary, if the financial statement has not been approved yet; or
 - For undertakings whose turnover or wage bill of 2019 is not a good proxy to forecast their expenses in next months¹¹, based on self-certification by the beneficiary, the amount of the loan may be increased to cover the liquidity needs from the moment of granting, for the coming 18 months. The submissions of the beneficiaries will be verified on the basis of their application, before the granting of the loan.

(19) The guarantees shall have the following features:

- (a) The guarantees are granted no later than on 31 December 2020;
- (b) The maximum guaranteed amount cannot exceed EUR 5 million;
- (c) The guarantee premiums are paid by the undertakings and are calculated according to the calculation method approved by Commission decision C(2019) 7076 final of 30 September 2019¹². Italy confirmed that, in any event, the premiums per individual loan will not be lower than the values set out in Table 1 below.

Table 1: guarantee premiums

Beneficiary	For 1 st year	For 2 nd -3 rd year	For 4 th -6 th year
SMEs	25bps	50bps	100bps

- (d) The duration of the guarantees matches that of the loans and is limited to a maximum of six years;

¹¹ E.g. the beneficiary is a new enterprise or an early stage enterprise, the undertaking has incurred higher costs than under normal circumstances, due to the COVID-19 outbreak, or it needs higher liquidity to restart its business, after the suspension of industrial and commercial production activities.

¹² State aid case SA.52895 (2019/N) - ISMEA calculation method for issuing direct guarantees at market conditions to undertakings active in the agricultural, agri-food and fishery sectors.

- (e) The coverage of the guarantees is as follows:
- At the level of the single loans,
 - 90% of the notional amount for new loans and loans that have been granted no earlier than three months before the request for the guarantee and, in any event, after 31 January 2020;
 - 80% of the notional amount for other existing loans that are restructured.
 - At the level of the loans' portfolio of each individual financial intermediary, additional constraints will be defined, according to the average probability of default of the beneficiaries, if the portfolio is composed of at least 20% of undertakings whose credit rating, as determined on the basis of the banks' internal model, is not higher than “BB”, as defined by the credit rating agency Standard and Poor's.
- (f) Losses are sustained proportionally by the financial intermediary and the guarantor. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally;
- (g) The conditions for mobilising the guarantees are defined in a Decree issued by the Ministry of Agricultural, Food and Forestry Policies in agreement with the Ministry of Economy and Finance¹³. These conditions are known and accepted by the financial intermediaries, banks and mutual guarantee institutions when the guarantee is initially granted.
- (20) The guarantees are granted upon request of the undertakings following its examination. The measure contains safeguards to ensure that the aid reaches the undertakings. The financial intermediaries have to declare the way they will pass on the advantage of the guarantee to the undertakings, which are the actual beneficiaries. The advantage is communicated to the actual beneficiary when the guarantee is granted. In particular,
- (a) For the undertakings to benefit from the guarantee by the Guarantee Fund on existing loans, financial intermediaries that have granted these loans should either restructure these loans in a way that results in at least 10% additional refinancing or lower the charged interest rate to take into account the guaranteed profile;
 - (b) To benefit from the guarantee by the Guarantee Fund, mutual guarantee institutions should provide their guarantee for a fee that covers only their administrative costs.

¹³ Decree of 22 March 2011 - Criteria and methods of application for the provision of guarantees (*Criteri e modalità applicative per la prestazione di garanzie*) (GU n. 210 of 9/9/2011).

2.7.2. *Guarantees under Section 3.1 of the Temporary Framework*

- (21) The guarantees under Section 3.1 of the Temporary Framework are provided to financial intermediaries, banks and mutual guarantee institutions¹⁴, in relation to new loans.
- (22) The loans covered by the guarantees shall have the following features:
- (a) The loans have a grace period of 24 months;
 - (b) The maximum loans' maturity is set at six years;
 - (c) The amount of the loan per undertaking does not exceed the following ceilings:
 - EUR 120 000 per undertaking active in the fishery and aquaculture sector;
 - EUR 100 000 per undertaking active in the primary production of agricultural products. The aid shall not be fixed on the basis of the price or quantity of products put on the market;
 - EUR 800 000 per undertaking active in the processing and marketing of agricultural products and in the forestry sector. The Italian authorities confirmed that aid granted to such undertakings 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.
- (23) The guarantees shall have the following features:
- (a) The guarantees are granted no later than on 31 December 2020;
 - (b) The guarantee premiums are zero;
 - (c) The duration of the guarantees matches that of the loans and is limited to a maximum of six years;
 - (d) The coverage of the guarantees is 100% of the notional amount for loans;
 - (e) The conditions for mobilising the guarantees are defined in a Decree issued by the Ministry of Agricultural, Food and Forestry Policies in agreement with the Ministry of Economy and Finance¹⁵. These conditions are known and accepted by the financial intermediaries, banks and mutual guarantee institutions when the guarantee is initially granted.
- (24) The guarantees are granted upon request of the undertakings. The measure contains the following safeguards to ensure that the aid reaches the undertakings, which are the actual beneficiaries:
- (a) For the undertakings to benefit from the guarantee, financial intermediaries cannot charge an interest rate that is higher than the sum of

¹⁴ See footnote 10.

¹⁵ See footnote 13.

- (i) the Italian government bond yield¹⁶, (ii) the difference between the 5 years Credit Default Swaps premium of the Italian banks and the 5 years Credit Default Swaps premium of the Italian Republic, and (iii) 20 bps;
- (b) To benefit from the guarantee, mutual guarantee institutions should provide their guarantee for a fee that covers administrative costs only.

2.7.3. *Grants under Section 3.1 of the Temporary Framework*

- (25) The Guarantee Fund provides the undertakings that benefit from guarantees on loans, as described in Section 2.7.1, with a grant equal to the present value of the fees due under the guarantee. In any case the amount of the grant cannot exceed the following ceilings:
 - (a) EUR 120 000 per undertaking active in the fishery and aquaculture sector;
 - (b) EUR 100 000 per undertaking active in the primary production of agricultural products. The aid shall not be fixed on the basis of the price or quantity of products put on the market;
 - (c) EUR 800 000 per undertaking active in the processing and marketing of agricultural products and in the forestry sector. The Italian authorities confirmed that aid granted to such undertakings 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.
- (26) The present value of the fees are calculated on a yearly basis on the guaranteed amount of the residual debt of the loan, applying the premiums calculated as described in recital (19)(c) above, discounted to the date the guarantee is granted, using the discount rate calculated in accordance with the 2008 Communication from the Commission on the revision of the method for setting the reference and discount rates¹⁷. In any case, the fees shall not be lower than the values shown in table 1 above.

2.8. **Cumulation**

- (27) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support is financed entirely from State resources or partly financed by the Union.
- (28) The above-mentioned aid granted under Section 3.1 of the Temporary Framework (Sections 2.7.2 and 2.7.3) may be cumulated with aid granted under Section 3.2.
- (29) The Italian authorities confirmed that aid granted under Section 3.2 of the Temporary Framework will not be cumulated with other aid granted for the same

¹⁶ The Bank of Italy calculates and publishes the Rendistato index, which is the weighted average yield on a basket of government securities. The outstanding maturities of the Rendistato used for this calculation are between 4 years and 7 months and 6 years and 6 months.

¹⁷ Communication from the Commission on the revision of the method for setting the reference and discount rates, OJ C 14, 19.1.2008, p. 6–9.

underlying loan principal under Section 3.3 of the Temporary Framework, and vice versa.

- (30) Aid under this measure may be cumulated with other compatible aid and de minimis aid, provided the cumulation rules under the different de minimis Regulations are respected, or with other forms of Union financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemptions Regulations are respected.
- (31) In case aid under this measure is cumulated with other aid granted under this measure or under another measure authorised under the Temporary Framework, including aid granted under SA.56966 (2020/N), by the same competent granting authority or by another one, the maximum aid amounts per beneficiary established in the Temporary Framework and/or the maximum ceilings on loans per beneficiary specified in points 25(d) and 27(d) of the Temporary Framework will be respected for each undertaking.
- (32) The Italian authorities confirmed that 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, they will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities.

2.9. Monitoring and reporting

- (33) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework.

3. ASSESSMENT

3.1. Legality of the measure

- (34) By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU. The Commission notes that Article 13 of the Decree Law entered into force on 9 April 2020, but contains provisions that make the implementation of the measure conditional upon the approval of the Commission.

3.2. Existence of State aid

- (35) 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.
- (36) The measure is imputable to the State, since it is based on the legislative act mentioned in recital (8) and it is administered by the Guarantee Fund, which is a public instrument under the supervision of the Italian Ministry of Agricultural, Food and Forestry Policies. It is financed through State resources, since it is financed by public funds.

- (37) The measure confers an advantage on its beneficiaries in the form of guarantees on loans and direct grants (recital (7)). The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.
- (38) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular to SMEs operating in the agricultural, forestry, fishery and aquaculture sectors in Italy (recital (12)).
- (39) 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.
- (40) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

- (41) 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.
- (42) 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*”.
- (43) 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*”.
- (44) The measure aims at facilitating the access of SMEs to external finance at a time when the COVID-19 containment initiatives by Italy have an impact on the liquidity situation of undertakings, thereby threatening their respective viability. The Commission acknowledges that the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (45) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending by private banks to SMEs 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 Italian economy. Furthermore, the measure has been designed to meet the requirements of two specific categories of aid, namely “Aid in form of direct grants, repayable advances or tax advantages” described in Section 3.1 of the Temporary Framework and “Aid in the form of guarantees on loans” described in

Section 3.2 of the Temporary Framework as well as 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.

(46) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Italy and meets all the relevant conditions of the Temporary Framework. In particular: the elements of the notified measure described in Sections 2.7.2 and 2.7.3 above, meet all the applicable conditions provided for by the Section 3.1 of the Temporary Framework:

- The aid will be granted in the form of direct grants or guarantees on loans (recital (16)), as laid down in points 22(a) and 23(a) of the Temporary Framework.
- The maximum aid amount in the form of grants (before deduction of tax or other charges) per undertaking will not exceed the overall cap of EUR 120 000 for SMEs active in the fishery and aquaculture sector, EUR 100 000 for SMEs active in the primary agricultural production and EUR 800 000 for SMEs active in the processing and marketing of agricultural products and the forestry sectors (recital (25)). In the case of loans covered by guarantees, the maximum amount of the loan does not exceed these amounts for each of the sectors mentioned (recital (22)(c)). The conditions set out in points 22(a) and 23(a) of the Temporary Framework are therefore met.
- The estimated budget of the measure has been provided by Italy (recital (10)). Therefore, the condition set out in point 22(b) of the Temporary Framework is considered to be met.
- The aid will only be granted to undertakings, which were not already in difficulty on 31 December 2019 (recital (13)); hence the condition set out in point 22(c) of the Temporary Framework is met.
- The aid will be granted no later than 31 December 2020 (recital (11)); hence the condition set out in point 22(d) of the Temporary Framework is met.
- Aid granted to undertakings active in the processing and marketing of agricultural products will be 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 (recitals (22)(c)third indent and (25)(c)); 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 (recitals (22)(c)second indent and (25)(b)). Hence, the conditions set out in points 22(e) and 23(b) of the Temporary Framework are met.
- As the aid is granted in the form of guarantees on loans or grants to cover the costs of guarantees on loans (recital (16)), 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 condition set out in point 23(c) of the Temporary Framework is met.

- 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, the Italian authorities will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities (recital (32)); hence the condition set out in point 23*bis* of the Temporary Framework is met.
- (47) The elements of the notified measure described in Section 2.7.1 above meet all the applicable conditions provided for by Section 3.2 of the Temporary Framework:
- The measure sets minimum levels for guarantee premiums, described in recital (19)(c), in line with the guidance in point 25(a) of the Temporary Framework. The measure therefore complies with point 25(a) of the Temporary Framework.
 - Guarantees can be granted under the measure by 31 December 2020 at the latest (recital (19)(a)). The measure therefore complies with point 25(c) of the Temporary Framework.
 - The maximum loan amount per beneficiary covered by guarantees granted under the measure is described in recital (18)(d). The Commission observes that 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. With reference to the cases where the overall amount of the loan per beneficiary exceeds the ceilings laid down in point 25(d), (i) and (ii) of the Temporary Framework, the loan amount may not exceed the company's liquidity needs from the moment of the granting for the coming 18 months. This is done to ensure the proportionality of the aid granted under the measure and is justified for the reasons indicated in recital (18)(d).
 - The measure limits the duration of the guarantees to a maximum of six years (recital (19)(d)). Those guarantees cover 90% of or less than the loan principal (recital (19)(e)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (19)(f)). The measure therefore complies with point 25(f) of the Temporary Framework.
 - Guarantees granted under the measure relate to working capital and investment loans (recital (18)(a)). The measure therefore complies with point 25(g) of the Temporary Framework.
 - Firms already in difficulty on 31 December 2019 within the meaning of the ABER and FIBER are excluded from benefitting from the measure (recital (13)). The measure therefore complies with point 25(h) of the Temporary Framework.
 - The mobilisation of the guarantees is linked to specific conditions which have been defined in a Decree issued by the Ministry of Agricultural, Food and Forestry Policies in agreement with the Ministry of Economy and Finance (recital (19)(g)). These conditions are known and accepted by the

financial intermediaries, banks and mutual guarantee institutions when the guarantee is initially granted.

- (48) The elements of the notified measure described in Sections 2.7.1 and 2.7.2 above meet all the applicable conditions provided for by the Section 3.4 of the Temporary Framework:
- The measure introduces safeguards in relation to the possible indirect advantage in favour of the financial intermediaries to limit undue distortions to competition, as described in recitals (20) and (24). More specifically,
 - With regard to the financial intermediaries that grant the loans, the Commission takes into account the fact that all financial intermediaries authorised to operate in Italy have, in principle, access to the guarantee scheme (recital (14)), creating competition between the banks. With regard to new loans, whereby the undertakings are free to compare the offers from different financial institutions and select the most advantageous one, the Commission considers that the competition should in principle allow the undertakings to benefit in full from the guarantee. Moreover, the Commission notes that in the specific case of guarantees on new loans granted for 100% of their notional, additional safeguards exist, as the interest rate is defined through a mechanism that ensures that the banks do not charge more than their own estimated funding costs with a margin of 20bps, and the loans have a grace period of 24 months. With regard to existing loans, for which competition is instead limited, the financial intermediaries are obliged to lower the interest rate charged to the undertakings or to restructure the loan so as to ensure at least 10% additional financing to the undertakings. The advantage is communicated to the actual beneficiary when the guarantee is granted.
 - With regard to the mutual guarantee institutions that may provide guarantees on the commercial loans and benefit from the counter-guarantee from the Guarantee Fund, the Commission notes that these financial intermediaries can only charge commissions that cover administrative costs. They cannot receive any remuneration for the guarantees on which they provide form the counter-guarantees.
 - Such safeguards ensure that the financial institutions, to the largest extent possible, pass on the advantage of the measure to the actual beneficiaries. The measure therefore complies with points 28 to 31 of the Temporary Framework.
- (49) The applicable cumulation rules are respected (recitals (27) to (32)).
- (50) The Italian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (33)).

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

- (51) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (“BRRD”)¹⁸ and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (“SRMR”),¹⁹ in the event that an institution benefiting from the measure meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measure does not appear to violate intrinsically linked provisions of BRRD and of SRMR.
- (52) In particular, aid granted by Member States to non-financial undertakings as 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 institutions²⁰. Nevertheless, any such indirect advantage 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. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Article 2(1) No 28 BRRD and Article 3(1) No 29 SRMR.
- (53) Moreover, as indicated in recital (48) above, the measure introduces safeguards in relation to any possible indirect advantage 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 advantage provided by the measure to the actual beneficiaries.
- (54) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD and of SRMR.

¹⁸ OJ L 173, 12.6.2014, p. 190-348.

¹⁹ OJ L 225, 30.7.2014, p. 1-90.

²⁰ 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

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION