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Subject: **State Aid SA. 57121 (2020/N) – Hungary**
Loan guarantee scheme under 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 23 April 2020, Hungary notified aid in the form of a loan guarantee scheme for undertakings affected by the COVID-19 outbreak, the *Government Decision 1170/2020 (IV. 21.) on measures related to guarantee schemes to be implemented by MFB Hungarian Development Bank Ltd. and Garantiqa Credit Guarantee Co. Ltd. in order to mitigate the economic effects of the coronavirus pandemic on micro, small and medium-sized enterprises and large enterprises within the framework of the Economic Protection Action Plan"*[1], ("the scheme") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework").[2]

[1] A Kormány 1170/2020. (IV. 21.) Korm. határozata a Gazdaságvédelmi Akcióterv keretében a koronavírus világjárvány mikro-, kis- és középvállalkozásokra, valamint nagyvállalatokra gyakorolt gazdasági hatásainak mérséklése érdekében az MFB Magyar Fejlesztési Bank Zártkörűen Működő Részvénytársaság és a Garantiqa Hitelgarancia Zártkörűen Működő Részvénytársaság által megvalósítandó garanciakonstrukciókkal kapcsolatos intézkedésekről.

[2] 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 the Communication from the Commission of 3.4.2020, OJ C 112I, 4.4.2020, p. 1.

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

(3) Hungary 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 1/1958,[3] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE SCHEME

(4) Hungary considers that the COVID-19 outbreak has started to affect the real economy. Although the full impact of the COVID-19 outbreak on the economy is not yet foreseeable, the short-term impact is already clear in the form of a sharp rise in unemployment and in a reduction or complete cessation of production and service provisions.

(5) The scheme 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 COVID-19 outbreak and to preserve the continuity of economic activity during and after the outbreak.

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

2.1. The nature and form of aid

(7) The scheme provides aid in the form of guarantees on loans to micro, small and medium sized enterprises ("SMEs")[4] and large enterprises that face a liquidity shortage ensuring that the disruptions caused by the COVID-19 outbreak do not undermine their viability. The scheme comprises two measures: a loan guarantee measure administered by Garantiqa Hitelgarancia Zrt ("Garantiqa") (Measure A) and a loan guarantee measure administered by the Hungarian Development Bank, Magyar Fejlesztési Bank Zrt ("MFB") (Measure B).

2.2. National legal basis

(8) The legal basis for the two measures is the Government Decision 1170/2020 (IV. 21.) on measures related to guarantee schemes to be implemented by MFB Hungarian Development Bank Ltd. and Garantiqa Credit Guarantee Co. Ltd. in order to mitigate the economic effects of the coronavirus pandemic on micro, small and medium-sized enterprises and large enterprises within the framework of the Economic Protection Action Plan.

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

[4] As defined in Annex I to 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.

2.3. Administration of the measures

(9) The aid granting authority for Measure A is Garantiqa. Garantiqa is also responsible for administering Measure A. Garantiqa is a bank established on 7 December 1992 by the Hungarian State and Hungarian commercial banks in order to support the access of SMEs to loans and guarantees by granting them unconditional guarantees. The guarantees provided by Garantiqa are, in most cases, backed by counter-guarantees of the State.

(10) The aid granting authority for Measure B is MFB, the State-owned Development Bank[5]. MFB is also responsible for administering Measure B. MFB has as its main objective addressing shortcomings in the financial market. It provides funding opportunities to businesses in areas where commercial banks cannot provide financing efficiently, including preferential loans to businesses, carrying out fund management and providing other financial services within the framework of its mission. It is in operation since 1993.

2.4. Budget and duration of the scheme

(11) The budget of Measure A is estimated at HUF 500 billion (around EUR 1.4 billion). The budget of Measure B is estimated at HUF 50 billion (around EUR 140 million).

(12) Aid may be granted under the scheme as from its approval until 31 December 2020.

2.5. Beneficiaries

(13) The final beneficiaries of the scheme are all undertakings – micro enterprises, SMEs and large enterprises – that would face a liquidity deficit without the aid.

(14) Aid may be granted under the scheme only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[6], the Agricultural Block Exemption Regulation ("ABER")[7] or the Fisheries Block Exemption Regulation ("FBER")[8] respectively on 31 December 2019. Aid is granted under the scheme either through credit institutions or other financial institutions as financial intermediaries.

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[5] The legal status, tasks and activities of the MFB Zrt. are defined by Act XX of 2001 (MFB Act), its Articles of Association and the strategy are approved by the Hungarian Government.

[6] As defined in Article 2(18) of 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.

[7] As defined Article 2(14) of 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] As defined in Article 3(5) of 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.

2.6. Sectoral and regional scope of the scheme

(15) The scheme is open to all undertakings, except those operating in the following sectors: (i) manufacture of weapons and ammunition, (ii) manufacture of military fighting vehicles, (iii) gambling and betting activities and (iv) monetary intermediation and other financial services. The scheme applies to the whole territory of Hungary.

2.7. Basic elements of the scheme

2.7.1. Nature of the eligible instruments

(16) Measure A provides for the issuance of guarantees to existing and new investment and working capital loans with a maturity of maximum 6 years. Measure B provides for the issuance of guarantees to new investment and working capital loans with a maturity between 1 and 6 years.

(17) The aim of the scheme is to grant temporary aid to undertakings that have been affected by a sudden liquidity shortage as a result of the COVID-19 outbreak. It seeks to reduce the negative economic effects of the COVID-19 outbreak through providing sufficient financial sources for enterprises which would face a liquidity deficit without aid, and to restore and maintain corporate viability.

2.7.2. Maximum amount of the eligible instruments under the scheme

(18) The amount of the individual loan principal per beneficiary shall not exceed the highest of:

i. twice its annual wage bill for 2019 (including social charges as well as the cost of personnel working on the undertakings site but formally in the payroll of subcontractors); or

ii. 25% of its annual turnover of 2019; or

iii. subject to self-certification and assessed on a case by case basis, the 18 months liquidity needs of the beneficiary in case of an SME, and 12 months liquidity needs of the beneficiary in case of a large enterprise.

The alternative limit under (iii) with self-certification, assessed on a case by case basis, allows the aid granting authority to effectively deal with a large number of requests within a reasonable period of time in order to ensure assistance to companies without undue delay in the current context.

2.7.3. Maximum amount of the guarantee issued

(19) Guarantees issued under Measure A shall not exceed 90% of the amount of the eligible instrument with a maximum of HUF 5 billion (around EUR 14 million). Guarantees issued under Measure B shall not exceed 90% of the amount of the eligible instrument with a maximum of HUF 10 billion (around EUR 28 million). The losses will be sustained proportionally and under the same conditions by the credit institution and the State.

(20) When the size of the eligible instrument decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount decreases proportionally.

2.7.4. Maximum duration of loans under the scheme

(21) The eligible loans guaranteed have a maximum maturity of 6 years (recital (16)).

2.7.5. Period for granting the eligible instruments

(22) The guarantees can be granted under the scheme until 31 December 2020.

2.7.6. Remuneration of the guarantee

(23) The minimum guarantee premiums are progressive in time and established in line with point 25(a) of the Temporary Framework as set out in the following table:

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

2.7.7. Mobilisation of the guarantee

(24) The Hungarian authorities confirm that the mobilisation of the guarantee under the scheme is contractually linked to specific conditions, which are agreed between the parties when the guarantee is initially granted.

2.7.8. Additional provisions

(25) Credit and financial institutions shall ensure that interest rates of new guaranteed loans and of existing loans subject to a new guarantee reflect the reduced risk. Accordingly, the interest rate shall be set or adjusted at the interest rate of a comparable loan within the same risk category and for the same size of company, minus an appropriate rebate. In that regard, the credit institution shall apply only the normal required return[9] when calculating the premium and weigh the risk part of the guaranteed amount as a State guaranteed exposure[10]. Administrative and other costs shall be charged at no more than the normal level[11]. Existing loans which are non-performing shall be excluded from a guarantee under Measure A. Moreover, in case of existing loans taken out before January 2020, Hungary indicated that the guarantees provided by Garantiqa will be made conditional upon providing more liquidity to the borrower or granting a temporary grace period to the borrower by the financial institution. The guarantee scheme shall be open to all credit institutions, ensuring competition between those financial intermediaries.

[9] The bank may not charge higher costs (return, administrative and other cost) for the guaranteed loan than it does in its normal lending procedure (without Garantiqa's guarantee). This will ensure that the obligation to reduce interest will be not circumvented through other fees or costs. The normal level is understood as the level when the loan is disbursed, i.e. after the COVID-19 measures.

[10] As Garantiqa has a 90% counter-guarantee from the State, 90% of the volume guaranteed by Garantiqa can be considered equivalent to a State guaranteed exposure (i.e. an almost zero risk weight for that portion).

[11] See footnote (9).

2.8. Cumulation

(26) The aid ceilings and cumulation maxima fixed under the scheme shall apply regardless of whether the support for the aided projects are financed entirely from State resources or partly financed by the Union.

(27) The Hungarian authorities confirm 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. The authorities explicitly confirmed that this applies also to aid granted for the same beneficiary on the basis of measures approved by other decisions taken by the Commission on the basis of Sections 3.2 and 3.3 of the Temporary Framework. Insofar as one beneficiary may benefit from multiple schemes under Sections 3.2 and 3.3 of the Temporary Framework, the Hungarian authorities confirm that the maximum thresholds on loans for such schemes per beneficiary as specified in points 25(d) and 27(d) of the Temporary Framework shall be respected.[12]

2.9. Monitoring and reporting

(28) The Hungarian 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 scheme

(29) By notifying the scheme before putting it into effect, the Hungarian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(30) 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.

(31) The scheme is imputable to the State, since it is administered by Garantiqa, a financial institution under the control of Hungary and MFB, the State-Owned Development Bank. It is based on the Government Decision 1170/2020 (IV. 21.) on measures related to guarantee schemes to be implemented by MFB Hungarian Development Bank Ltd. and Garantiqa Credit Guarantee Co. Ltd. in order to mitigate the economic effects of the coronavirus pandemic on micro, small and medium-sized enterprises and large enterprises within the framework of the

[12] Aid under this scheme may be cumulated with other compatible aid and de minimis aid, provided that 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 Regulations are respected.

Economic Protection Action Plan. The scheme is financed through State resources, since it is financed by public funds.

(32) The scheme confers an advantage on its beneficiaries in the form of guarantees on loans. The scheme thus relieves those beneficiaries of costs, which they would have had to bear under normal market conditions.

(33) The advantage granted by the scheme is selective, since it is awarded only to certain undertakings, fulfilling the criteria laid down in recitals (13) and (14).

(34) The scheme 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.

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

3.3. Compatibility

(36) Since the scheme involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that scheme is compatible with the internal market.

(37) 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*".

(38) 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*".

(39) The scheme aims at facilitating the access of undertakings 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.

(40) The scheme is one of a series of measures conceived at national level by the Hungarian authorities to remedy a serious disturbance in their economy. The importance of the scheme to ensure access to liquidity during the COVID-19 outbreak is widely accepted by economic commentators and the scheme is of a scale, which can be reasonably anticipated to produce effects across the entire Hungarian economy. Furthermore, the scheme has been designed to meet the requirements of a specific category of aid ("Aid in the form of guarantees on loans") as described in Section 3.2 of the Temporary Framework and the requirements for aid in the form of loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

(41) The Commission accordingly considers that the scheme is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Hungary and meets all the relevant conditions of the Temporary Framework. In particular:

- The applicable guarantee premiums are set in accordance with the relevant minimum levels set in point 25(a) of the Temporary Framework (recital (23)).

- Guarantees may be granted by 31 December 2020 at the latest (recital (22)). The scheme therefore complies with point 25(c) of the Temporary Framework.

- The maximum loan amount per beneficiary covered by guarantees granted under the scheme is limited to the amounts set in point 25(d)(i) and (ii) of the Temporary Framework. As explained in recital (18), the Hungarian authorities have appropriately justified their recourse to point 25(d)(iii) of the Temporary Framework by invoking reasons of administrative simplicity and underlining the need to deal swiftly with a large number of loan applications by beneficiaries in need. The scheme therefore complies with point 25(d) of the Temporary Framework.

- The scheme limits the duration of the guarantees to a maximum of 6 years (recital (21)). The guarantees cover a maximum of 90% of the loan principal with a maximum of HUF 5 billion (approximately EUR 14 million) for Measure A and HUF 10 billion (approximately EUR 28 million) for Measure B. Losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State (recital (19)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (20)). The scheme therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the scheme relate to investment and working capital loans (recital (16)). The scheme therefore complies with point 25(g) of the Temporary Framework.

- Firms already in difficulty on 31 December 2019 within the meaning of the GBER, ABER or FBER are excluded from benefitting from the scheme (recital (14)). The scheme therefore complies with point 25(h) of the Temporary Framework.

- The scheme introduces safeguards in relation to the possible indirect aid in favour of credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. Credit and financial institutions must in particular set or – in the case of existing loans – adjust the applicable interest rate of the loan subject to the guarantee to reflect the reduced risk assessment in relation to the usual risks associated with the type of loan and the size of the company involved. This means that the interest rate equals the interest rate of a comparable loan within the same risk category and for the same size of company minus an appropriate rebate. Also, administrative and other costs can be charged at most up to the normal level. Moreover, as regards

guarantees on existing loans, existing non-performing loans are excluded from the scheme and guarantees for loans taken out before January 2020 will be conditional upon providing more liquidity to the borrower or granting a temporary grace period to the borrower by the financial institution (recital (25). Finally, as regards guarantees on new loans, the budget of the measure is limited, which will encourage competition between banks and further drive down interest rates. The scheme therefore complies with points 28 to 31 of the Temporary Framework.

- The scheme respects the applicable cumulation rules (recitals (26) and (27)).
- The Hungarian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (28)).
- The mobilisation of the guarantee is contractually linked to specific conditions which must be agreed between the parties when the guarantee is initially granted (recital (24)).

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

(42) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution ("BRRD")[13], in the event that an institution benefiting from the scheme meets the conditions for the application of that Directive, the Commission notes that the scheme does not appear to violate intrinsically linked provisions of the BRRD.

(43) 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 channelled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.[14] Nevertheless, any such indirect aid granted under the scheme do not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the scheme 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 scheme does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD.

(44) The Commission therefore concludes that the scheme does not violate any intrinsically linked provisions of the BRRD.

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

[14] 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