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Subject: State Aid SA.57083(2020/N) – Belgium
COVID-19: Guarantee scheme – Walloon Region

Excellency,

1. PROCEDURE

(1) By electronic notification of 29 April 2020, Belgium notified aid in the form of guarantees on loans (the guarantee scheme for the Walloon Region, "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 Belgian authorities confirm that the notification does not contain confidential information.

(3) Belgium 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,[2] and to have this Decision adopted and notified in English.

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1 Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, C/2020/1863, OJ C 91I, 20.3.2020, p. 1-9 as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I , 4.4.2020, p. 1–9.

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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2. DESCRIPTION OF THE MEASURE

(4) Belgium 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 damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak.

(5) The package of measures adopted by Belgium aims at addressing the severe disruption of payments and cash flows faced by many businesses that not only have trouble in servicing existing loans but also to obtain additional credit to cover their liquidity needs for the next twelve to eighteen months. The package is specifically set up to ensure that these disruptions do not undermine the viability of these enterprises. The package consists of four individual sub-measures:

(a) The first sub-measure ("SME Measure") provides for the granting of a guarantee by SOWALFIN S.A. on investment and working capital loans provided by financial intermediaries to micro, small or medium-sized enterprises, excluding undertakings active in the social action infrastructures and healthcare sectors;

(b) The second sub-measure ("LE Measure") provides for the granting of a guarantee by GELIGAR S.A. on investment and working capital loans provided by financial intermediaries to large enterprises, excluding undertakings active in the social action infrastructures and healthcare sectors;

(c) The third sub-measure ("Turnaround Measure") provides for the granting of a guarantee by SOGEPA S.A. on investment and revolving capital loans and confirmed credit lines financing the operation of beneficiaries that are in turnaround situations ("retournement" or "redéploiement", see recital (14) below). This measure is open to SMEs and large enterprises excluding micro enterprises and undertakings active in the social action infrastructures and healthcare sectors;

(d) The fourth sub-measure ("Social action infrastructures and healthcare Measure") provides for the granting of a guarantee by WALLONIE SANTE S.A. on investment and revolving capital loans and confirmed credit lines financing the operations of beneficiaries, granted by financial intermediaries to large enterprises or SMEs. These undertakings must be active in the social action infrastructures and healthcare sectors.

(6) The measure is expressly based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Section 3.2 of the Temporary Framework.

2.1. The nature and form of aid

(7) The measure provides aid in the form of guarantees on loans.

2.2. National legal basis

(8) The legal bases for the measure are the decisions of the Walloon Government of 18 March ("Outils économiques et financiers – Mesures de soutien des entreprises impactées par la crise du COVID-19") and 29 April 2020 ("Encadrement

temporaire aide d'Etat – Régime de garanties en faveur des PME et grandes entreprises pour répondre à la crise du COVID-19 – Notification auprès de la Commission européenne") to entrust a delegated task for the granting of guarantees to SOWALFIN S.A., for the SME Measure, to GELIGAR S.A., for the LE Measure, to SOGEPA S.A, for the Turnaround Measure, and to WALLONIE SANTE S.A. for the Social action infrastructures and healthcare Measure.

(9) The legal bases of these decisions are the following:

- Loi du 2 avril 1962 relative à la Société fédérale de Participations et d'Investissement et les sociétés régionales d'investissement[3] ;

- Décret du 6 mai 1999 portant modification du Chapitre V de la loi du 2 avril 1962 constituant une Société nationale d'Investissement et des sociétés régionales d'investissement[4] ;

- Décret du 11 juillet 2002 organisant le statut de la Société wallonne de financement et de garantie des petites et moyennes entreprises, en abrégé « SOWALFIN »[5].

2.3. Administration of the measure

(10) The granting authority is the Government of the Belgian Walloon Region, represented by the minister for the economy.

(11) The SME Measure will be administered and implemented by SOWALFIN S.A., the LE Measure will be administered and implemented by GELIGAR S.A., the Turnaround Measure will be administered and implemented by SOGEPA S.A. and the Social infrastructure and health care Measure will be administered and implemented by WALLONIE SANTE S.A. (all together, "the entrusted entities").

2.4. Budget and duration of the measure

(12) The Belgian authorities estimate that EUR 530 million of total volume of guarantees will be granted under the measure.

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

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3 Published on 18 April 1962, n° 1962040203. The text is available under the following link: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1962040231&table_name=loi.

4 Published on 9 June 1999, n° 1999027444. The text is available under the following link: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1999050634&table_name=loi.

5 Published on 13 August 2002, n° 2002071153. The text is available under the following link: http://www.ejustice.just.fgov.be/eli/decret/2002/07/11/2002027685/moniteur.

2.5. Beneficiaries

(14) The final beneficiaries of the measure are all undertakings active in the Walloon Region, excluding undertakings active in the banking, financial and insurance sectors, with some specificities attached to each measure:

- SME Measure: The measure only applies to SMEs within the meaning of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC);

- LE Measure: The measure only applies to large undertakings that are not covered by the definition referred to in the abovementioned Recommendation of 6 May 2003;

- Turnaround Measure: The measure only applies to undertakings not covered by the other sub-measures, classified as SMEs within the meaning of the Commission Recommendation of 6 May 2003, with the exception of micro-enterprises, and to 'large' undertakings. These undertakings are in specific turnaround situations that may result, for instance, from on-going changes to their business model or from the economic shocks related to the COVID-19 outbreak but excludes aid – as all other measures – to companies that were already in difficulty on 31 December 2019;

- Social action infrastructures and healthcare Measure: The measure only applies to undertakings not covered by the other sub-measures, regardless of their size, provided they are active in the social action infrastructures and healthcare sectors.

(15) According to the Belgian authorities, the four sub-measures are complementary and address the needs of different types of beneficiaries in line with the scope of competences of each entrusted entities. Belgium confirmed that they are designed so that neither overlap nor arbitrage between the four sub-measures will take place, including through adequate cooperation among the entrusted entities.

(16) 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")[6] on 31 December 2019. This applies to all four sub-measures and therefore explicitly also to companies eligible under the Turnaround Measure for guarantees provided by SOGEPA S.A (see recital (14)).

(17) Aid is channelled under the measure through credit institutions and other financial institutions as financial intermediaries that have concluded a partnership with the entrusted entities administering the measure. The measure is open to all credit

[6] 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 ("ABER"), 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 ("FIBER").

institutions and other financial institutions as financial intermediaries that have concluded, or would conclude, a partnership, via a framework agreement, with the entrusted entities administering the measure. All credit institutions and other financial institutions active in Belgium have the possibility to enter into such partnership and act as financial intermediaries under the measure. For the SME Measure, these financial partners may also be "Investors" active in the Walloon region, private and public capital investment and financing companies established under private law, as financial intermediaries, in line with the Regulation (EU) No 549/2013 of 21 May 2013 on the European system of national and regional accounts in the European Union[7].

2.6. Sectoral and regional scope of the measure

(18) The measures are open to all sectors, excluding the banking, financial and insurance sectors, and with the exception that undertakings active in the social action infrastructures and healthcare sectors are eligible for support only under the dedicated Social action infrastructures and healthcare Measure. The measure applies to the whole territory of the Belgian Walloon Region.

2.7. Basic elements of the measure

(19) The measure consists in the granting of guarantees on loans provided by commercial credit institutions and financial institutions acting as financial intermediaries. Several conditions apply on the level of the underlying loans and the actual guarantees provided.

2.7.1. Nature of the qualifying loans

(20) The nature of the qualifying loans differs between each sub-measure:

- SME Measure and LE Measure: existing investment loans as well as existing and new working capital loans. Existing loans that are based on predefined repayment schedules are only eligible under the explicit condition that credit institutions or other financial institutions grant a moratorium on principal payments for a duration of at least three months. For the other existing loans (without predefined amortisation schedule), the credit institutions or other financial institutions have to commit to either extend the maturity of the loans or commit to uphold the currently granted limits to make such loans eligible for guarantee coverage. In any case, non-performing loans as of 31 December 2019 are not eligible for the guarantee.

- Turnaround Measure and Social action infrastructures and healthcare Measure: new investment loans and working capital loans, as well as committed credit lines.

(21) There is no maximum maturity imposed on qualifying loans, however, the guarantee provided on these loans may not exceed six years (see recital (27) below).

[7] OJ L 174, 26.6.2013, p. 1–727. See in particular sectors S.12501 and S.12502 of the European System of Integrated Economic Accounts 2010.

2.7.2. *Maximum amount of the qualifying loans*

(22) The maximum amount of the qualifying loans follows the same methodology for all sub-measures. It may not exceed:

- the double of 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
- based on self-certification by the beneficiary of its liquidity needs and assessed on a case-by-case basis, 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.

(23) The Belgian authorities confirm that the alternative third option related to the beneficiary's liquidity needs based on self-certification and assessed on a case-by-case basis is intended to apply exceptionally in situations where an eligible undertaking can justify why the limits provided under the other thresholds are not appropriate proxies to forecast their liquidity needs in the next months[8] or for reasons of administrative simplicity where the situation of the beneficiary requires an exceptionally fast guarantee approval process.

(24) In addition, the maximum amount of the qualifying loans is limited to a maximum of EUR 7.5 million for the SME Measure and to EUR 10 million for the LE Measure. These limits also apply to the Turnaround Measure and the Social action infrastructures and healthcare Measure based on the nature of the undertakings: qualifying loans to SMEs will also be limited to EUR 7.5 million and to large companies to EUR 10 million under both sub-measures.

2.7.3. *Maximum amount of the guarantee*

(25) The maximum amount of the guarantee follows the same methodology for all sub-measures. The guarantee is limited to a maximum of 90% of the remaining outstanding underlying loan amount. All potential (final) losses will be incurred proportionally and under the same conditions between the credit institutions and other financial institutions as financial intermediaries and the Belgian Walloon Region through the entrusted entities administering the measure in line with the above mentioned ratio.

(26) When the size of the qualifying loans decreases over time, for instance because the loans start to be reimbursed, the principal amount of the qualifying loans of the reference portfolio, on which the maximum amount of the guarantee is based, will decrease proportionally.

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[8] E.g. the beneficiary is a new or early stage enterprise, or focussed on research and developments activities. It may also be the case that 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.

2.7.4. *Maximum duration of the guarantee*

(27) The maximum duration of the guarantee follows the same methodology for all measures. The guarantee may not exceed a maximum of six years, without prejudice to the maturity of the underlying credit instrument, which may exceed or be lower than the duration of the guarantee granted[9].

2.7.5. *Remuneration of the guarantee*

(28) The remuneration of the guarantee differs between each measure:

- SME Measure: the annual guarantee premium will be typically between 100 and 110 basis points, regardless of the maturity of the underlying loan. If the circumstances warrant it, the entrusted entity reserves the right to reduce the annual guarantee premium to be paid to the following minimum levels based on the Temporary Framework. The applicable minimum premiums are calculated on the basis of the duration of the guarantee: at minimum 25 basis points per annum for up to one year duration[10], 50 basis points per annum for two to three years duration, and 100 basis points per annum for four to six years duration.

- LE Measure: the annual guarantee premium is defined on the basis of the duration of the guarantee: at minimum 50 basis points per annum for one year duration or less, 100 basis points per annum for two to three years duration, and 200 basis points per annum for four to six years duration.

- Turnaround Measure and Social action infrastructures and healthcare Measure: the annual guarantee premium is defined on the basis of the duration of the guarantee and the nature of the undertakings:

    - SMEs: at minimum 25 basis points per annum for one year duration or less, 50 basis points per annum for two to three years duration, and 100 basis points per annum for four to six years duration.

    - Large companies: at minimum 50 basis points per annum for one year duration or less, 100 basis points per annum for two to three years duration, and 200 basis points per annum for four to six years duration.

2.7.6. *Mobilisation of the guarantee*

(29) The mobilisation of the guarantee is contractually linked to specific conditions, which are agreed between the beneficiary and the guarantor when the guarantee is initially granted. The guarantee shall be mobilised in respect of the occurrence of a credit event.

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9 Except for the SME Measure where the maturity of the underlying loan and the duration of the guarantee are aligned if they are lower than one year.

10 The premium for durations lower than six months is adjusted upward to the level corresponding to a six-month annualised premium, only for the SME Measure.

(30) The amount for which compensation is payable, to which the percentage of the guarantee to be paid under its guarantee applies, corresponds to the definitive loss recorded, where appropriate, after the proceeds from the realisation of any security guaranteeing the credit and the financial partner's exercise of all legal, mutual or legal remedies, in so far as they could normally have been carried out, following the credit event.

2.7.7. Additional provisions

(31) The guarantee is conditional on the financial intermediary maintaining the total amount of assistance provided to the beneficiary in relation to the level established before the guarantee is granted. This ensures that the final beneficiaries do not suffer from reduced access to liquidity.

(32) The granting of the guarantee is not automatic. The entrusted entities administering the measure carry out, upon reception of the claims from the credit institutions and other financial institutions as financial intermediaries, a "transaction-to-transaction" financial analysis based on scoring methodologies set out in the framework agreement in order to assess the credit and commercial risks of the operation involving the guarantee. This process of a case-by-case assessment of individual applications is designed to ensure that the benefit of the guarantee is passed-on to the beneficiary, be it in the form of higher volumes of financing, riskier portfolios, or guarantee levels strictly limited to the maximum necessary.

2.8. Cumulation

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

(34) The Belgian authorities confirmed that aid under the notified measure may be cumulated with aid under *de minimis* Regulations[11] or the Block Exemption Regulations[12] provided the provisions and cumulation rules of those Regulations are respected.

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[11] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

[12] 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, 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 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing

(35) The Belgian authorities confirmed that aid under the notified measure may be cumulated with aid under schemes approved by the Commission under the other sections of the Temporary Framework provided the provisions in those specific sections are respected. The Belgian authorities also confirmed that aid under the notified measure would be granted having regard to the potential existence of another guarantee granted for the same underlying loan under schemes implemented at regional or federal level in Belgium and approved by the Commission, to ensure that cumulation rules are respected.

(36) The Belgian authorities confirmed that aid granted under section 3.2 of the Temporary Framework shall not be cumulated with aid granted for the same underlying loan principal under section 3.3 and vice versa. Aid granted under section 3.2 and section 3.3 may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the thresholds set out in point 25 (d) or in point 27 (d) of the Temporary Framework.

(37) A beneficiary may benefit in parallel from multiple schemes under Section 3.2 provided the overall amount of loans per beneficiary does not exceed the thresholds set out in point 25 (d) of the Temporary Framework.

2.9. Monitoring and reporting

(38) The Belgian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid granted under the measure on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting[13]).

3. ASSESSMENT

3.1. Legality of the measure

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

3.2. Existence of State aid

(40) 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.

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of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

13 Referring to information required in Annex III of the Commission Regulation (EU) No. 651/2014 of 17 June 2014 and of Annex III of the Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014. For guarantees, the nominal value of the underlying instrument may be inserted per beneficiary.

(41) The measure is imputable to the State, since it is administered by four entities entrusted by the Walloon Government (SOWALFIN S.A., GELIGAR S.A., SOGEPA S.A. and WALLONIE SANTE S.A) and it is based on decisions by the Walloon Government pursuant to the law and decrees referred to in recitals (8) and (9). It is financed through State resources, since it is financed by public funds.

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

(43) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, and furthermore because it excludes undertakings active in the banking, financial and insurance sectors.

(44) 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.

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

3.3. Compatibility

(46) 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.

(47) 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*".

(48) 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*".

(49) 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.

(50) The measure is one of a series of measures conceived at national and regional levels by the Belgian 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 by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Walloon economy, which is important for the

entire Belgian economy[14]. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of guarantees*") described in Section 3.2 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.

(51) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular, for all the four sub-measures:

- The minimum levels for guarantee premiums are defined on the basis of the duration of the guarantee, which may differ from the maturity of the underlying loan, and on the nature of undertakings (SMEs or large enterprises), at minimum levels that are fixed for the entire duration of the guarantee and comply with the minimum guarantee premiums set out in point 25 (a) of the Temporary Framework. It therefore complies with the guidance in point 25(a) of the Temporary Framework.

- Guarantees can be granted under the measure by 31 December 2020 at the latest (recital (13)). The measure therefore complies with point 25(c) of the Temporary Framework.

- For all loans regardless of their maturity, 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. Specifically, the Commission considers that the reference to the liquidity needs under point 25(d)(iii) of the Temporary Framework is proportionate as it is intended to apply only exceptionally in situations where an eligible undertaking, given its specific situation, can certify why the limits provided under the other thresholds are not appropriate or for reasons of administrative simplicity (recitals (22) to (24)). It is also noted that the entrusted entities administering the measure carry out a specific financial analysis on each transaction, thereby ensuring that any exceptional reference to the liquidity needs of the undertakings is properly justified (recital (32)). The Belgian authorities have properly justified why they want to make use of point 25(d)(iii) of the Temporary Framework. They have pointed at reasons of administrative simplicity where the situation of the beneficiary requires an exceptionally fast guarantee approval process. The scheme therefore complies with point 25(d) of the Temporary Framework.

- The duration of the guarantees is limited to maximum six years (recital (27)). Those guarantees cover only up to 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 (recital (25)). Furthermore, when the size of the loan decreases over time, the

[14] It is important to note that the Commission has already approved a similar scheme for the Flemish Region (Commission Decision from 9 April 2020 in case SA.56919(2020/N) – Belgium – The COVID-19 loan guarantee – Flemish Region) so that the two sets of measures combined cover the majority of the economic activity in Belgium.

guaranteed amount decreases proportionally (recital (26)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to investment or working capital loans (recital (20)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Firms already in difficulty (situation as of 31 December 2019) within the meaning of the GBER and, where appropriate, ABER or FIBER are excluded from benefitting from the measure (recital (15)). The measure therefore complies with point 25(h) of the Temporary Framework.

- 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:

  – In particular, for all sub-measures, the credit institutions and other financial institutions will continue to share the risks involved with the loans as the guarantee is limited to an amount covering typically less, but in no case more than 90% of the remaining underlying loan amount (recital (25)).

  – In addition, the guarantee is conditional on the credit institutions and other financial institutions maintaining the total amount of funding provided to the beneficiary in relation to the level established before the guarantee is granted (recital (31)).

  – As regards guarantees on existing loans, existing loans that were qualified as non-performing as of 31 December 2019 are excluded from the scheme. For existing loans covered under the SME Measure and the LE Measure that are based on predefined repayment schedules, credit institutions and other financial institutions have to offer a moratorium on principal repayments for at least three months (recital (20)). For the other existing loans, the credit institutions or other financial institutions have to commit to either extend the maturity of the loans or uphold the currently granted limits in order to become eligible for a guarantee under this measure (recital (20)).

  – The granting of the guarantee is also conditional on a review by the entrusted entities administering the measure that will carry out a financial analysis assessing the credit and commercial risks of the operation involving the guarantee. This review also ensures the transfer of the benefit of the guarantee in the form of a higher volume of financing, riskier portfolios, lower guarantees and/or lower interest rates to the final beneficiary (recital (32)).

  – Finally, all credit institutions and other financial institutions may decide to participate as an intermediary, based on a framework agreement with the entrusted entities, leaving the possibility for the beneficiary undertakings to seek for the best conditions for their credit operations in a competitive manner (recital (17)).

Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. The measure therefore complies with points 28 to 31 of the Temporary Framework.

- The Commission notes that the Belgian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (38)).

- The applicable cumulation rules are respected, including with respect to other schemes implemented at regional and federal level in Belgium and approved by the Commission (recitals (33) to (37)). In addition, the four sub-measures are complementary and address the needs of different types of beneficiaries. Any undertaking may only benefit from one of the four sub-measures, since they are designed in a way that prevents combination of several of the sub-measures for one and the same beneficiary (recital (15)).

- 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 (29)).

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

(52) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"BRRD"**)[15] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (**"SRMR"**),[16] 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.

(53) 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.[17] 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.

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

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

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

(54) Moreover, as indicated in recital (51) 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.

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

5. CONCLUSION

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

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