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Subject: State Aid SA.57187 (2020/N) – Belgium
COVID-19: Credendo Bridge Guarantee

Excellency,

1. PROCEDURE

(1) On12 May 2020, Belgium notified aid in the form of guarantees on loans ("the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("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 TFEU, in conjunction with Article 3 of Regulation 1/1958,[2] and to have this decision adopted and notified in English.

[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 from the Commission C(2020) 2215 final of 3 April 2020, OJ C 112I, 4.4.2020, p. 1-9, and by Communication from the Commission C(2020) 3156 final of 8 May 2020, OJ C 164, 13.5.2020, p. 3–15.

[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 is affecting 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, that the disruptions caused by the COVID-19 outbreak do not undermine the viability of affected undertakings and to preserve the continuity of economic activity during and after the outbreak. Notably, the measure is complementary to the loan portfolio guarantee scheme approved by the Commission on 11 April 2020 (the "Portfolio Guarantee"), as further explained in particular in recitals (8) and (26) below.[3]

(5) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union ("TFEU"), as interpreted by Section 2 and Section 3.2 of the Temporary Framework.

2.1. The nature and form of aid

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

2.2. National legal basis

(7) The legal basis for the measure is the Law of 31 August 1939 on the Delcredere/Ducroire[4], as implemented by the ministerial instructions issued to Delcredere/Ducroire on 6 April 2020 (ref: KAB/NM/HM).

(8) The measure is closely linked and complementary to the Portfolio Guarantee, which is based on the Law of 27 March 2020[5] and the Royal Decree of 14 April 2020[6] (the "Portfolio Guarantee Decree").

2.3. Administration of the measure

(9) The measure will be administered by the Belgian export credit agency Delcredere/Ducroire (hereinafter referred to by its commercial name "Credendo"), in application of its missions under the Law of 31 August 1939.

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[3] Commission Decision of 11 April 2020 in case SA.56819 (2020/N) – Belgium – COVID-19 – Loan guarantee scheme in response to the COVID-19 crisis, available at: https://ec.europa.eu/competition/state_aid/cases1/202015/285506_2147077_16_2.pdf.

[4] Moniteur Belge/Belgisch Staatsblad, 4 October 1939, Numac: 1939083150, as amended.

[5] Law of 27 March 2020 authorising the King to grant a State guarantee for certain loans in the fight against the consequences of the coronavirus and amending the law of 25 April 2014 on the legal status and supervision of credit institutions and stockbroking firms (Moniteur Belge/Belgisch Staatsblad of 31 March 2020, Numac: 2020040944.

[6] Royal Decree 14 April 2020 on the granting a State guarantee for certain facilities in the fight against the consequences of the coronavirus (Moniteur Belge/Belgisch Staatsblad of 15 April 2020, Numac: 2020030617.

(10) Credendo is a public establishment that pursues a mission of a commercial and financial nature, consisting in the promotion of international economic relations, mainly through the acceptance of export, import and investment risks abroad.[7] One of Credendo's tasks includes the "*carrying out, on behalf of the Federal Government, of any mission, whether technical, financial or representational, relating to international trade or investments which the Federal Government decides to entrust it*".[8] In respect of such tasks, Credendo acts on behalf of the State.[9]

2.4. Budget and duration of the measure

(11) The estimated budget of the measure is up to EUR 500 million.[10]

(12) Aid may be granted under the measure as from its approval until no later than 30 September 2020, with applications for aid being allowed by 25 September 2020.

2.5. Beneficiaries

(13) The final beneficiaries of the measure include all undertakings registered in Belgium (including self-employed traders, small and medium enterprises ("SMEs")[11] and large companies), even non-incorporated, active in all sectors of the economy with the exception of the financial sector[12] and government entities[13], provided that the undertaking is active in Belgium (with a primary establishment or as a subsidiary or branch in Belgium).

(14) However, the eligible undertakings only include those which were not in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[14], the Agriculture Block Exemption Regulation ("ABER")[15] and the

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7 Article 1, paragraph 2 of the Law on the Delcredere/Ducroire.

8 Article 1, paragraph 2, indent 2, item 6 of the Law on the Delcredere/Ducroire.

9 Article 3, point 1 of the Law on the Delcredere/Ducroire.

10 With the maximum available capacity of the measure under the current legal framework capped at approximately EUR 1.8 billion.

11 All SMEs encompassed by the measure will meet the criteria laid down in Annex I 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, 26.6.2014, p. 1.

12 I.e. credit institutions, investment companies, insurance and reinsurance undertakings, and other legal persons granting credit within the framework of their usual commercial or professional activities, see Article 6, paragraph 2, items (b) to (d) of the Portfolio Guarantee Decree. However, intermediaries in credit and in insurance that do not grant credit for own account are included as eligible beneficiaries.

13 Within the meaning of Article 6, paragraph 2, item (a) of the Portfolio Guarantee Decree.

14 Article 2(18) of the Commission Regulation (EU) No 651/2014.

15 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, 1.7.2014, p. 1.

Fisheries Block Exemption Regulation ("FIBER")[16] on 31 December 2019. In addition, the measure is not open to undertakings that:

(a) as at 1 February 2020 had payment arrears on outstanding loans, taxes or social security contributions, or as at 29 February 2020, had more than 30 days of such arrears; or

(b) as at 31 January 2020 were subject to loan restructuring by their bank.

(15) As an additional requirement, the final beneficiaries of the measure are undertakings that carry out international operations. This requirement will notably be deemed fulfilled if at least 30% of the undertaking's turnover generated in 2019 was realised outside Belgium. The measure, however, is not export aid, i.e. it does not promote export activity and is not directly linked to elements such as the quantities exported or to the establishment and operation of a distribution network[17], but it guarantees loans to covers the liquidity needs of undertakings that are also active in exports.

(16) Lastly, to benefit from the measure, the eligible undertakings need to meet requirements pertaining to their financial capacity (including its 2019 EBITDA, net result, net financial debt, financial costs, solvency and liquidity ratios), which will be assessed by Credendo based on pre-selected financial indicators.

2.6. Sectoral and regional scope of the measure

(17) As specified in recital (13), the measure is open to all sectors except undertakings that are part of the financial sector, and government entities.

(18) The measure applies to the whole territory of Belgium.

2.7. Basic elements of the measure

2.7.1. Eligible loans

(19) The measure provides for the issuance of State guarantees on loans that meet the following conditions:

(a) they are new loans (understood as loans granted between 1 April 2020 and 30 September 2020)[18];

(b) they are loans to undertakings (not to natural persons for their private use);

[16] 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, 24.12.2014, p. 37.

[17] As defined in Article 1(2)(c) GBER, Article 1(4)(c) ABER and in Article 1(3)(b) FIBER.

[18] Drawdowns on existing credit lines, as well as refinancing, extensions or renewals of existing facilities, are not considered to be new loans. By contrast, loans granted as from 1 April 2020 and falling within the scope of the Portfolio Guarantee are considered new loans.

(c) they are eligible loans falling within the scope of the Portfolio Guarantee and are not deselected from the Portfolio Guarantee;

(d) they have a maturity of up to 12 months[19];

(e) they are investment or working capital loans;

(f) the total amount of the loan does not exceed:

- double the annual wage bill of the borrower (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); or

- 25% of the borrower's total turnover in 2019, or

- the beneficiary's liquidity needs (including its investment and working capital costs) from the moment of granting for the coming 12 months, based on self-certification by the beneficiary.[20] Belgium submits, however, that this last limit will only be used exceptionally, in urgent cases and for undertakings whose turnover or wage bill of 2019 is not a good proxy to forecast their expenses in the next months (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), as assessed on a case-by-case basis by the Belgian authorities.

2.7.2. Requirements for the guarantees

(20) The guarantees to be granted under the notified measure will meet the following conditions:

(a) they are first-demand guarantees;

(b) they cover both the principal amount of the loan and the loan interest due during the full maturity period of the loan;

(c) the guarantee coverage will fall within the range of 20% to 80% of the principal loan amount; the credit institution will at all times keep at least a 20% exposure of any loss; losses stemming from the loans will be sustained proportionally and under the same conditions by the credit institution and by the State;

[19] This includes loans with an indefinite duration that may be terminated within the first 12 months. However, regardless of the duration of the loan, the Belgian authorities submit that the maximum tenor of the guarantee shall not exceed 12 months.

[20] Those limits, in line with point 25(d) of the Temporary Framework, will not be exceeded and thus the Belgian authorities will not use the flexibility under point 25(e) of the Temporary Framework.

(d) notwithstanding the ceilings described in recitals (19)(f) and (20)(c), the maximum amount of the guarantee (excluding guaranteed interest) per borrower will be capped at EUR 10 million and, in principle, at an amount equal to 30% of the borrower's equity[21];

(e) the guaranteed amount decreases proportionally when the size of the loan decreases; and

(f) the maximum tenor of the guarantee shall not exceed 12 months.

2.7.3. Remuneration for the guarantee

(21) The guarantees granted under the notified measure will be remunerated in line with the following rules:

(a) it is remunerated with a premium of at least 25 basis points for SMEs and 50 basis points for large undertakings[22] (the premium will be charged under the Portfolio Guarantee, but will also count towards the State's remuneration under the notified measure, given the interaction between the two guarantees and the fact that only one of those guarantees can be effectively used, as explained in recital (26));

(b) in addition, Credendo will also receive a remuneration consisting in a risk-sharing fee: it will be entitled to a percentage of the credit institution's margin on the guaranteed loan[23], equal to the guarantee coverage (e.g. where the guarantee coverage is 80% of the loan amount, Credendo assumes the risk of the borrower's default for such portion and is therefore entitled to 80% of the credit institution's profit margin on that loan).

2.7.4. Mobilisation of the guarantee

(22) The guarantees granted under the measure will be first-demand guarantees, which means that they will be callable without the need to establish a final loss on the loan or on the portfolio, and without the need to first attempt to recover the loan from the borrower or from other collateral (if available).

(23) Belgium confirms that the mobilisation of the State guarantees is contractually linked to specific conditions that have to be agreed between the parties when the guarantee is initially granted. More specifically, to benefit from the guarantees, each credit institution will have to enter into a Master Risk Participation Agreement with Credendo, the draft of which has already been pre-defined.

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[21] The requirement on the relation of the guarantee to the beneficiary's equity can be waived where justified following an individual assessment of the application by Credendo, e.g. where the beneficiary offers a high-quality collateral as an additional security on the loan.

[22] See recital (24) of the Portfolio Guarantee Decision.

[23] I.e. the interest rate charged to the borrower, less the credit institution's cost of funding.

2.7.5. *Pass-on of the advantage to the final beneficiaries*

(24) Belgium submits that the measure is designed in a way to minimise the possible indirect aid to the credit institutions whose loans will be guaranteed under the measure. This is mainly achieved by the following safeguards:

(a) the measure only applies to new loans so that the aid does not address legacy exposures (recital (19)(a));

(b) credit institutions cannot charge an interest rate on the guaranteed loans in excess of 1.25% p.a.[24];

(c) credit institutions share part of their profit margin on each guaranteed loan with Credendo in proportion to the guarantee coverage (recital (21));

(d) credit institutions retain part of the risk associated with the guaranteed loans, of no less than 20% of the principal loan amount (recital (20)(c));

(e) the guaranteed amount decreases proportionally to the loan amount (recital (20)(e));

(f) the main terms of the guaranteed loans will be defined *ex ante* and credit institutions will not be able to change them without Credendo's approval. Credendo will thus be in a position to ensure that the advantage of the measure is passed on to the final beneficiaries to the largest extent possible.

2.8. Cumulation

(25) The Belgian authorities confirmed that aid under the notified measure:

(a) may be cumulated with aid under *de minimis* Regulations[25] or the Block Exemption Regulations[26] provided the provisions and cumulation rules of those Regulations are respected;

(b) may be cumulated with other State aid granted for the same underlying loan principal under Section 3.2 of the Temporary Framework (i.e. in the form of guarantees on loans), provided that the overall coverage under all

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24 Plus the fee for the guarantee. Where the credit institution charges an interest (or guarantee fees) in excess of the ceiling laid down in the law, the borrower can claim a reimbursement of such surplus.

25 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).

26 I.e. the GBER, ABER or FIBER, as referred to in recital (14).

such guarantees (excluding interest) does not exceed 80% of the loan principal[27];

(c) cannot be cumulated with other State aid granted for the same underlying loan principal under Section 3.3 of the Temporary Framework (i.e. in the form of subsidised interest rates), and vice versa;

(d) may be cumulated with other State aid granted for different loans under Sections 3.2 and/or 3.3 of the Temporary Framework, where the overall loan amount per undertaking does not exceed the ceiling set out in point 25(d) or in point 27(d) of the Temporary Framework.

(26) As an exception from point (25)(b), the Belgian authorities clarified that the following rules will apply to the cumulation of the notified measure with the Portfolio Guarantee on the same underlying loans, to exclude that for one loan, a credit institution is indemnified under both of those guarantees:

(a) to be eligible for the measure, a loan will also have to meet the requirements under the Portfolio Guarantee, and will thus be covered by the latter by operation of law;

(b) however, a credit institution whose loan is guaranteed under the measure and the Portfolio Guarantee will not be able to obtain compensation for the same loss under both measures;

(c) this is ensured by applying an adjustment: whenever a credit institution receives any repayment from the State under the Portfolio Guarantee on top of amounts already received under the notified measure, such repayment will be recovered from the credit institution. This will ensure that no credit institution will: (i) benefit from guarantee coverage in excess of 80% of the principal amount, and (ii) be indemnified cumulatively under the notified measure and the Portfolio Guarantee.

2.9. Monitoring and reporting

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

3. ASSESSMENT

3.1. Legality of the measure

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

[27] However, loans that benefit from State guarantees (including regional guarantees) that cannot be combined with the Portfolio Guarantees, are also excluded from benefitting from the notified measure.

3.2. Existence of State aid

(29) 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.

(30) The measure is imputable to the State, since it is administered by Credendo on behalf of the Belgian State in accordance with the Law of 31 August 1939 and implemented in accordance with the ministerial instructions of 6 April 2020, as well as the Portfolio Guarantee Decree (recitals (7) and (8)). It is financed through State resources, since it is financed by public funds (recital (10)).

(31) The measure confers an advantage on its beneficiaries in the form of guarantees on loans (recitals (19) to (24)). The measure thus relieves those beneficiaries of costs, which they would have had to bear under normal market conditions.

(32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings that meet the conditions in recitals (13) to (16), notably they are active internationally, and exclude financial institutions and government entities as eligible final beneficiaries.

(33) 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 (recital (17)).

(34) 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

(35) 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.

(36) 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*".

(37) 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*".

(38) 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.

(39) The measure is one of a series of measures conceived at national level by the Belgian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending to enterprises during the COVID-19 outbreak is widely accepted and the measure is of a scale, which can be reasonably anticipated to produce effects across the entire economy of Belgium. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("Aid in the form of guarantees on loans") described in Section 3.2 of the Temporary Framework.

(40) 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:

- A premium of 25 basis points (for SMEs) or 50 basis points (for large undertakings) is payable on the guarantee on loans with a duration limited to 12 months, as ensured under the Portfolio Guarantee. Given the interplay between the measure and the Portfolio Guarantee and the fact that the two guarantees cannot be effectively cumulated, this ensures that the provision of State guarantees under the measure is sufficiently remunerated (recitals (21) and (26)). The measure therefore complies with point 25(a) of the Temporary Framework.

- Guarantees can be granted under the measure by 30 September 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 limited in line with point 25(d) of the Temporary Framework (recital (19)(f)). The flexibility allowed under point 25(e) of the Temporary Framework will not be used (recital (19)(f)). The Commission considers that the Belgian authorities have properly justified the application of point 25(d)(iii) of the Temporary Framework. The flexibility allowed under that point will only be used exceptionally, in urgent cases and for undertakings whose turnover or wage bill of 2019 is not a good proxy to forecast their expenses in the next months, as assessed on a case-by-case basis by the Belgian authorities on the basis of a justification by the beneficiary (recital (19)(f)).

- The measure limits the duration of the guarantees as the maximum tenor of the guarantee cannot exceed 12 months (recital (20)(f)). Those guarantees cover up to 80% 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 (20)(c)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (20)(e)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to investment and working capital loans (recital (19)(e)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Undertakings in difficulty on 31 December 2019 are excluded from benefitting from the measure (recital (14)). The Commission therefore considers that the measure complies with point 25(h) of the Temporary Framework.

- The measure introduces safeguards in relation to the possible indirect aid in favour of credit institutions or other financial institutions to limit undue distortions to competition. In particular, the measure only applies to newly granted qualifying loans, thereby excluding the provision of State guarantees to legacy exposures.[28] It only covers part of the loans, leaving at least 20% of the risk with credit institutions. In addition, the risk-sharing fee structure *de facto* transfers the credit institutions' margin – to the extent covered by the guarantee – to Credendo, thereby allowing credit institutions to only recoup a profit on the non-guaranteed part of the loan. At the same time, the interest rate that credit institutions can charge on the guaranteed loans is capped at 1.25% p.a., which contributes to ensuring that the measure will ultimately benefit borrowers rather than lenders. The Commission also takes positive note of the fact that the main terms of the guaranteed loans will be defined *ex ante* between Credendo and the credit institution concerned and departure from such terms will require Credendo's approval. Credendo will therefore be able to ensure that the advantage of the measure is passed on to the final beneficiaries to the largest extent possible (recital (24)). The Commission concludes that the abovementioned safeguards are sufficient to minimise the potential indirect aid that could be derived from the measure by the intermediary credit institutions. The measure therefore complies with points 28 to 31 of the Temporary Framework.

- The applicable cumulation rules are respected (recitals (25) and (26)). The Commission notes in particular that the measure excludes any effective cumulation with payments under the Portfolio Guarantee, as explained in recital (26). The measure therefore complies with points 20 and 24bis of the Temporary Framework.

- The Belgian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (27)).

- Lastly, the mobilisation of the guarantees is contractually linked to specific conditions that have to be agreed between the parties when the guarantee is initially granted (recital (23)).

[28] The Commission notes that the loans covered by the measure may also include loans that have already been granted as from 1 April 2020 and fall within the scope of the Portfolio Guarantee. In this regard, the Commission considers that the conditions applicable to the measure, and in particular the risk-sharing fee structure minimises indirect aid in favour of credit institutions, by transferring the corresponding part of such institutions' profit to Credendo, while keeping the overall cost of the loan for the borrower within the ceilings specified in recital (24)(b).

(41) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

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

(42) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (the "BRRD")[29] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (the "SRMR"),[30] in the event that an institution benefiting from the measures meets the condition for the application of that Directive or of that Regulation, the Commission notes that the measures do not appear to violate intrinsically linked provisions of the BRRD and of the SRMR.

(43) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU under 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.[31] Nevertheless, such indirect aid does not have the objective to preserve or restore the viability, liquidity or solvency of those institutions. The objective of the aid at issue 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, such aid does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.

(44) Moreover, as indicated in recital (40), the measures introduce safeguards in relation to the possible indirect aid in favour of the 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 measures to the final beneficiaries.

(45) The Commission therefore concludes that the measures do not appear to violate any intrinsically linked provisions of the BRRD and of the SRMR.

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

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

[31] 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) 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