EUROPEAN COMMISSION

Brussels, 16.6.2020
C(2020) 4125 final

PUBLIC VERSION

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Subject: State Aid SA. 57625 (2020/N) – Italy
COVID-19: Loan guarantee schemes under the *Fondo di garanzia per le PMI* - Amendment to the scheme SA.56966

Excellency,

1. PROCEDURE

(1) By electronic notification of 10 June 2020, Italy notified an amendment to the State aid scheme approved by Commission Decision of 13 April 2020 in case SA.56966 (2020/N)[1] (“the amendment”, “the initial scheme” and “the initial Decision” respectively) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended on 3 April and 8 May 2020 respectively (“the Temporary Framework”)[2].

(2) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958,[3] and to have this Decision adopted and notified in English.

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1 Commission Decision C(2020), JOCE C/144/2020

2 Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak as adopted on 19 March 2020 (C(2020) 1863), OJ C 91I, 20.3.2020, p. 1-9, as amended on 3 April 2020, OJ C112 I, 4.4.2020, p.1-9 and on 8 May 2020, OJ C 164, 13.5.2020, p. 3–15.

3 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

(3) The objective of the initial scheme was to preserve the continuity of economic activity during and after the COVID-19 outbreak. It was designed to ensure that the banking system provides enterprises - micro, small and medium ones in particular - with the necessary liquidity to overcome the current economic difficulties.

(4) The scheme is administrated by the Central Guarantee Fund for SMEs[4] (the "Guarantee Fund"). It is composed of three different measures:

(a) Guarantees under Section 3.1 of the Temporary Framework;

(b) Grants under Section 3.1 of the Temporary Framework;

(c) Guarantees under Section 3.2 of the Temporary Framework.

(5) The legal basis for the amended scheme is the Italian Law n. 40 of 5 June 2020 (the "Law"),[5] converting, with amendments, the Decree Law n. 23 of 8 April 2020[6] (the "Decree Law"), under which the initial scheme was notified and the initial Decision taken.

(6) The Italian Authorities will amend the estimated budget from EUR 1.729 billion to EUR 25 billion. In particular, the Italian authorities estimate that around EUR 20 billion would be allocated for measures under Section 3.1 and EUR 5 billion would be allocated for the measure under Section 3.2. Additional resources may be made available by other administrations for co-financing. This budget represents the expected public costs from the amended scheme. The Italian authorities estimate the nominal amount of guarantees made available under the scheme would be EUR 150 billion.

(7) Apart from the budget, the Italian authorities will amend the following features of the scheme with respect to guarantees under Section 3.1 of the Temporary Framework:

(a) The loans covered by the guarantees shall have a maximum maturity of 10 years;

(b) The group of eligible beneficiaries is expanded to include agents, brokers and other intermediaries registered in the national register of insurance, reinsurance and ancillary insurance intermediaries.[7]

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[4] "Fondo di garanziaper le PMI", as established by Article 2(100) of the Italian Law n. 662 of 23 December 1996. This is the administrator of the measure, as described in recital (8) of the initial Decision.

[5] Published in the *Gazzetta Ufficiale* n. 143 of 6 June 2020.

[6] Published in the *Gazzetta Ufficiale* n. 94 of 8 April 2020.

[7] As set up by the Insurance Code, in implementation of Directive 2002/92/EC on insurance mediation.

(8) Apart from the budget, the Italian authorities will amend the following features of the guarantees under Section 3.2 of the Temporary Framework with respect to guarantees on existing loans as foreseen already in the initial scheme:

(a) While the initial scheme required the financial intermediary to provide additional refinancing of 10% of the guaranteed loan amount, Italy will increase this requirement to 25%;

(b) Italy has clarified that the financial intermediary will have to certify the pass-on of the advantage by a reduction in the interest rate on the loan for the final beneficiary with a communication to Guarantee Fund;

(c) Italy confirms that undertakings that have exposures already classified as "non-performing" on 31 January 2020 are not eligible under the scheme.

3. ASSESSMENT

3.1. Lawfulness of the measure

(9) By notifying the amendment to the initial scheme before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU. The Commission notes that the Law entered into force on 6 June 2020 but contains provisions that make the implementation of the measure conditional upon the approval of the Commission.

3.2. Existence of State aid

(10) 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.

(11) Recitals (33) to (38) of the initial Decision establish that the initial scheme gives rise to the granting of State aid. The amendments introduced by the Italian authorities do not affect those findings, which are applicable also to these amendments. In particular, while the amendments allow a subset of financial intermediaries to become eligible for benefitting from the guarantees under Section 3.1 of the Temporary Framework, other financial intermediaries, notably credit institutions, remain excluded as final beneficiaries. Moreover, companies in difficulties (within the meaning of the applicable regulations as described in recital (12) of the initial Decision) remain excluded from the scheme. Accordingly, the measure remains selective.

3.3. Compatibility

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

(13) 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*".

(14) 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*".

(15) In recitals (39) to (49) of the initial Decision, the Commission concluded that the initial scheme fulfilled the conditions set out in Sections 3.1 and 3.2 of the Temporary Framework.

(16) With regard to the guarantees under Section 3.1 of the Temporary Framework, none of these amendments affect the compatibility assessment made under the initial Decision.

(17) With regard to the guarantees under Section 3.2 of the Temporary Framework, none of these amendments affect the compatibility assessment made under the initial Decision.

(18) The Commission therefore considers that the amended scheme 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. 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.

The decision is based on non-confidential information and is therefore published in full on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

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