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PUBLIC VERSION

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Subject: State Aid SA. 57711 (2020/N) – Croatia
COVID-19: State aid Scheme to support the maritime, transport, transport infrastructure, tourism, and related sectors impacted by the COVID-19 outbreak

Excellency,

1. PROCEDURE

(1) By electronic notification of 17 June 2020, Croatia notified two State aid measures in the form of guarantees on loans 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 Commission requested further information to the Croatian authorities on 20 June 2020, provided on 23 June 2020.

(3) Croatia exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with

[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), 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), and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 164, 13.5.2020, p. 3).

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Article 3 of Regulation 1/1958[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURES

(4) Croatia considers that the COVID-19 outbreak has started to affect the real economy. The measures form part of an overall package of measures and aim to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the COVID-19 outbreak, to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the COVID-19 outbreak.

(5) The first measure provides aid in the form of guarantees on new working capital loans below the EUR 800 000 ceiling of Section 3.1 of the Temporary Framework ("Measure A"). The second measure provides aid in the form of guarantees on new working capital loans above the EUR 800 000 ceiling, as per Section 3.2 of the Temporary Framework ("Measure B").

(6) The compatibility assessment of the measures is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Sections 3.1, 3.2 and 3.4 of the Temporary Framework.

2.1. The nature and form of aid

(7) The measures provide aid in the form of guarantees on loans.

2.2. Legal basis

(8) The legal basis for the measures is composed of the State Aid Law[3], the Act on the execution of the State budget for the year 2020[4], the Small Business Development Promotion Act[5], and the Act on the Croatian Bank for Reconstruction and Development[6].

2.3. Administration of the measures

(9) The granting authority of the measures will be the Ministry of the Sea, Transport and Infrastructure of Croatia. The state-owned development bank Croatian Bank for Reconstruction and Development ("HBOR") will administer the notified measures on behalf of and for account of the Republic of Croatia for large undertakings. The Croatian Agency for SMEs, Innovations and Investments

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

[3] OG 47/14, 69/17.

[4] OG 117,19, 32/20, 42/20.

[5] OG 29 /02, 63/07, 53/12, 56/13, 121/16.

[6] OG 138/06, 25/13.

HAMAG-BICRO ("HAMAG-BICRO") will administer the notified measures on behalf of and for account of the Republic of Croatia for SMEs.

2.4. Budget and duration of the measures

(10) The overall estimated budget of the measures is HRK 600 million (approx. EUR 80 million)[7], coming from the general budget of the State, of which HRK 200 million (approx. EUR 27 million) for Measure A and HRK 400 million (approx. EUR 53 million) for Measure B.

(11) Aid may be granted under the two measures as from its approval by the Commission until no later than 31 December 2020.

2.5. Beneficiaries

(12) The final beneficiaries of the measures are large undertakings and SMEs[8] active in the maritime, transport, transport infrastructure, tourism and related sectors impacted by the COVID-19 outbreak. The measures include undertakings registered in Croatia to perform activities in the following sectors according to NACE[9]:

42.91 Construction of water projects;
49.10 Passenger rail transport, interurban;
49.20 Freight rail transport;
49.31 Urban and suburban passenger road transport;
49.39 Other passenger transport n.e.c. (taxi transport is excluded);
50.10 Sea and coastal passenger water transport;
50.20 Sea and coastal freight water transport;
50.30 Inland passenger water transport;
50.40 Inland freight water transport;
51.10 Passenger air transport;
51.21 Freight air transport;
52.10 Warehousing and Storage;
52.2 Support activities for transport;
77.34 Renting and leasing water transport equipment;
79.11 Travel agency activities (only those related to the nautical tourism);
79.12 Tour operator activities (related to the nautical tourism);
9329 Other amusement and recreation activities: ports of nautical tourism;
43.29 Other construction installation;
08.1 Quarrying of stone, sand and clay;

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7 Exchange rate: HRK 1 = EUR 0.1325, as of 17 June 2020. Source: https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eurofxref-graph-hrk.en.html.

8 As defined in Annex I 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).

9 Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

30.11 Building of ships and floating structures;
33.15 Repair and maintenance of ships and boats;
43.1 Demolition and site preparation.

(13) Beneficiaries may be eligible for aid provided they are faced with liquidity shortages because their business activities have been reduced or completely discontinued due to the exceptional circumstances caused by the COVID-19 outbreak, or if they face difficulties in operation as a result of the outbreak. Undertakings that are considered to have business difficulties as a result of the COVID-19 outbreak are the ones that comply with any or several of the following conditions: (a) saw a significant decrease in turnover in the relevant period of 2020 compared to the same period in 2019, (b) can expect the achievement of business income, based on the business indicators in the first six months of 2020, at a level significantly lower (at least 20%) than the business income achieved in 2019, (c) achieved a physical decrease in traffic and/or in volume of transport of passengers and freight, travel and tourist reservations, etc. in 2020 compared to the same period in 2019, and (d) cancelled or postponed for a longer period (at least a year) previously agreed and planned activities or other business activities according to the business plans for 2020.

(14) The Croatian authorities confirmed that undertakings entrusted with public service obligations cannot be beneficiaries of the measures. Undertakings in the agriculture, fishery and aquaculture sectors will be excluded from the measures.

(15) Aid may not be granted under the measures to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[10] on 31 December 2019.

(16) Aid is granted under the measures through credit institutions and other financial institutions as financial intermediaries. However, those institutions are excluded as eligible final beneficiaries of the measures.

2.6. Sectoral and regional scope of the measures

(17) The measures are open to undertakings active in the maritime, transport, transport infrastructure, tourism and related sectors as described in recital (12).

(18) The measures apply to the whole territory of Croatia.

2.7. Basic elements of the measures

(19) The measures consist in new public guarantees on loans from banks or other financial institutions to large undertakings and SMEs active in the maritime,

[10] 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, 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, and 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.

transport, transport infrastructure, tourism and related sectors allowing them to benefit from liquidity loans on preferential terms, in the current COVID-19 outbreak.

2.7.1. Measure A

(20) Measure A concerns 'Temporary limited amounts of aid' in the form of guarantees on loans with the following conditions:

(a) The guarantees granted under Measure A relate to working capital loans;

(b) The total nominal value of guarantees issued by HBOR (for large enterprises) and HAMAG-BICRO (for SMEs) will not exceed EUR 800 000 per beneficiary. All figures used must be gross, that is, before any deduction of tax or other charges. Measure A covers the repayment of 90% of the underlying loan. The losses will be sustained proportionally and under the same conditions by the lender and the grantor. If the size of the loan decreases, the value of the guarantee will decrease proportionally in a way that the guaranteed proportion of the loan will remain the same;

(c) The mobilisation of the guarantee is contractually linked to specific conditions agreed between the parties when the guarantee is granted;

(d) The guarantee covers a loan from a bank or other financial institutions to a beneficiary for a minimum of 1 year and maximum of 5 years;

(e) Beneficiaries will have to submit relevant evidence to prove liquidity needs caused by the COVID-19 outbreak and the required amount of State aid;

(f) Existing loans are not eligible for Measure A; only new loans are covered by Measure A;

(g) Aid will not be granted to companies that were already in difficulty on 31 December 2019[11];

(h) Beneficiaries will pay a flat, one-off guarantee premium of 20 bps;

(i) The guarantee must be issued no later than 31 December 2020;

(j) The Croatian authorities will 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, as set out in Section 3.4 of the Temporary Framework. The relevant credit institutions or other financial intermediaries will, to the largest extent possible, pass on the advantages of the public guarantee to the final beneficiaries. The financial intermediaries should be able to demonstrate to HBOR or to HAMAG-BICRO that they operate a mechanism that ensures that the advantages are

[11] Within the meaning of the General Block Exemption Regulation, the Agricultural Block Exemption Regulation or the Fisheries Block Exemption Regulation respectively).

passed on to the largest extent possible to the final beneficiaries in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates than without such public guarantees. The measure relates to new loans, which conditions for beneficiaries should be more favorable than those of the loans available on the market, and all commercial credit institutions have access to the measure, thus enabling competition among them. This allows final beneficiaries to compare offers of different commercial credit institutions and choose the financial intermediary that to the largest extent possible passes advantage on to them. Moreover, the Croatian authorities capped the annual interest rate premium up to a maximum of 2 percent of the total amount of the loan.

2.7.2. Measure B

(21) If the nominal value of the guarantee exceeds the ceiling of EUR 800,000, it shall be granted in the form of a guarantee in accordance with Section 3.2. of the Temporary Framework, under Measure B. This measure has the following conditions:

(a) The guarantees granted under Measure B relate to working capital loans;

(b) The total nominal value of the guarantees issued by HBOR (for large enterprises) and HAMAG-BICRO (for SMEs) will exceed EUR 800 000 per beneficiary. All figures used must be gross, that is, before any deduction of tax or other charges. The measure covers for the repayment of either 90% of the underlying loan principal where losses are sustained proportionally and under the same conditions by the credit institution and by the State (HBOR/HAMAG-BICRO); or 35% of the loan principal where losses are first attributed to the State (HBOR/HAMAG-BICRO) and only then to the credit institution grantor of the loan. In both cases, when the size of the loan decreases over time, the guaranteed amount will decrease proportionally;

(c) The mobilisation of the guarantee is contractually linked to specific conditions agreed between the parties when the guarantee is initially granted;

(d) The duration of the loan guarantee is limited to a maximum of 6 years;

(e) The guarantee covers both loans with maturity until 31 December 2020 and loans with maturity beyond 31 December 2020. Irrespective of maturity, the overall amount of loans per beneficiary shall not exceed (i) the double 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 (ii) 25% of the beneficiary’s total turnover in 2019;

(f) Beneficiaries will have to submit relevant evidence to prove liquidity needs caused by the COVID-19 outbreak and the required amount of State aid;

(g) Existing loans are not eligible for Measure B; only new loans are covered by Measure B;

(h) Aid will not be granted to companies that were already in difficulty on 31 December 2019[12];

(i) The guarantee must be issued no later than 31 December 2020;

(j) The measure sets minimum levels for guarantee premiums of 25 bps for SMEs and 50 bps for large enterprises for the 1st year; 50 bps for SMEs and 100 bps for large enterprises for the 2nd and 3rd years; and 100 bps for SMEs and 200 bps for large enterprises for the 4th to 6th years;

(k) The Croatian authorities will 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, as set out in Section 3.4 of the Temporary Framework. The relevant credit institutions or other financial intermediaries will, to the largest extent possible, pass on the advantages of the public guarantee to the final beneficiaries. The financial intermediaries should be able to demonstrate to HBOR or to HAMAG-BICRO that they operate a mechanism that ensures that the advantages are passed on to the largest extent possible to the final beneficiaries in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates than without such public guarantees. The measure relates to new loans, which conditions for beneficiaries should be more favorable than those of the loans available on the market, and all commercial credit institutions have access to the measure, thus enabling competition among them. This allows final beneficiaries to compare offers of different commercial credit institutions and choose the financial intermediary that to the largest extent possible passes advantage on to them. Moreover, the Croatian authorities capped the annual interest rate premium up to a maximum of 2 percent of the total amount of the loan.

2.8. Cumulation

(22) The Croatian authorities confirm that aid granted under the measures may be cumulated with aid under *de minimis* Regulations[13] or the General Block

[12] Within the meaning of the General Block Exemption Regulation, the Agricultural Block Exemption Regulation or the Fisheries Block Exemption Regulation respectively).

[13] 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).

Exemption Regulation[14] provided the provisions and cumulation rules of those Regulations are respected.

(23) The Croatian authorities confirm that aid granted under the measures may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(24) The Croatian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under Measure A or aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, shall be respected.

(25) The Croatian authorities confirm 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 of that framework 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 ceilings set out in point 25(d) or in point 27(d) of the Temporary Framework.

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

2.9. Monitoring and reporting

(27) The Croatian 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 measures on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[15]).

3. ASSESSMENT

3.1. Lawfulness of the measures

(28) By notifying the measures before putting them into effect, the Croatian authorities have respected their obligations under Article 108(3) TFEU.

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.

[14] 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).

[15] Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

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 measures are imputable to the State, since they are administered by the State agencies HBOR and HAMAG-BICRO on behalf of the Croatian government (recital (9)) and are based on the national legal basis mentioned in recital (8). They are financed through State resources, since they are financed by the general budget of the State (recital (10)).

(31) The measures confer an advantage on their beneficiaries in the form of non-market conform guarantees on loans (recital (7)). The measures thus provide funding to those beneficiaries on terms that are better than normal market conditions.

(32) The advantage granted by the measures is selective, since the measures are awarded only to certain undertakings, in particular undertakings active in the sectors listed in recitals (12) and (17).

(33) The measures are liable to distort competition, since they strengthen the competitive position of their beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(34) In view of the above, the Commission concludes that the measures constitute aid within the meaning of Article 107(1) TFEU. The Croatian authorities do not contest that conclusion.

3.3. Compatibility

(35) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether they are 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 (in 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 measures aim 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.

(39) The measures are part of a series of measures conceived at national level by the Croatian authorities to remedy a serious disturbance in their economy.

(40) The Croatian economy is a service-oriented economy whose tertiary sector accounts for more than 70% of total GDP. Within the structure of the tertiary sector, tourism, travel, and transport, which are predominantly export-oriented, are some of the most important parts of the Croatian economy, accounting for almost 30% of total GDP. Due to the COVID-19, undertakings in these sectors have had their activity halted for months. In particular, a large number of companies affected by the measures operate in road transport (both freight and passenger transport) and sea transport, tourism (charters) and nautical transport sector. The same is true for airports and air transport operators that faced a significant drop (-95%) of their turnover in the first four months of 2020,[16] compared to the same period of 2019, due to the fact that air transport has been banned. In the same line, coastal ferry services between the mainland and the islands have been restricted. The prohibition has been introduced for both passengers and cargo with foreign countries. The hardest impact has been witnessed in the tertiary sectors such as tourism and transport, especially SMEs in sectors closely linked with export and tourism.

(41) Furthermore, the measures have been designed to meet the requirements of specific categories of aid :

- "*Aid in the form of limited amounts of aid*" described in Section 3.1 of the Temporary Framework and the requirements for aid in the form of guarantees on loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

- "*Aid in the form of guarantees on loans*" described in Section 3.2 of the Temporary Framework and the requirements for aid in the form of guarantees on loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

(42) The Commission accordingly considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework.

(43) In particular, regarding Measure A:

- The aid takes the form of State guarantee for new working capital loans (recital (20)(a)); The overall nominal value of guarantee shall not exceed EUR 800 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (20)(b)). The measure therefore complies with point 22(a) of the Temporary Framework;

- Aid is granted under the measure on the basis of a scheme with an estimated budget, as indicated in recital (10). The measure therefore complies with point 22(b) of the Temporary Framework;

[16] The adverse effect of the corona virus epidemic cut the number of passengers handled by airports by half in March, e.g. in March, the number of passengers handled by the Zagreb airport decreased by 58%, the Split airport saw a decline of 67%, Zadar experienced a decline of 51%, while the airport of Rijeka reported a decline of 87%.

- Aid will not be granted to undertakings under the measure that were already in difficulty on 31 December 2019 (recital (20)(g)). The measure therefore complies with point 22(c) of the Temporary Framework;

- Aid will be granted under the measure no later than 31 December 2020 (recital (20)(i)). The measure therefore complies with point 22(d) 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. The relevant credit institutions or other financial intermediaries will, to the largest extent possible, pass on the advantages of the public guarantee to the final beneficiaries. The financial intermediaries should be able to demonstrate to HBOR or to HAMAG-BICRO that they operate a mechanism that ensures that the advantages are passed on to the largest extent possible to the final beneficiaries in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates than without such public guarantees. Moreover, the measure relates to new loans and all commercial credit institutions have access to the measure, thus enabling competition among them. This allows final beneficiaries to compare offers of different commercial credit institutions and choose the financial intermediary that to the largest extent possible passes advantage on to them. Guarantees are issued for new loans, which conditions for beneficiaries should be more favorable than those of the loans available on the market. This can be for example loans with lower interest rates or loans granted with lower requirements collateral. This constitutes an important advantage for final beneficiaries. Finally, the Commission takes into account that the measure introduces a cap on the interest rate of the underlying loan of 2 percent per annum. The safeguards thus ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (20)(j)). The measure therefore complies with points 28 to 31 of the Temporary Framework.

- The cumulation rules set out in point 22a of the Temporary Framework are respected (recital (24)).

(44) Regarding Measure B:

- The measure sets minimum levels for guarantee premiums of 25 bps for SMEs and 50 bps for large enterprises for the 1st year; 50 bps for SMEs and 100 bps for large enterprises for the 2nd and 3rd years; and 100 bps for SMEs and 200 bps for large enterprises for the 4th to 6th years (recital (21)(j)). It therefore complies with point 25(a) of the Temporary Framework.

- Guarantees may be granted under the measure by 31 December 2020 at the latest (recital (21)(i)). The measure therefore complies with point 25(c) of the Temporary Framework.

- Irrespective of the maturity of the loan (i.e. for loans with maturity until or beyond 31 December 2020), 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 (21)(e)).

- The measure limits the duration of the guarantees to a maximum of 6 years (recital (21)(d)). Those guarantees cover 90% of the loan principal, where losses are sustained proportionally and under the same conditions by the credit institutions and the State, and 35% of the loan principal, where losses are first attributed to the State and only then to the credit institutions (i.e. a first-loss guarantee) (recital (21)(b)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (21)(b)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to working capital loans (recital (21)(a)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Undertakings already in difficulty on 31 December 2019 are excluded from benefitting from the measure (recital (21)(h)). 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. The relevant credit institutions or other financial intermediaries will, to the largest extent possible, pass on the advantages of the public guarantee to the final beneficiaries. The financial intermediaries should be able to demonstrate to HBOR or to HAMAG-BICRO that they operate a mechanism that ensures that the advantages are passed on to the largest extent possible to the final beneficiaries in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates than without such public guarantees. Moreover, the measure relates to new loans and all commercial credit institutions have access to the measure, thus enabling competition among them. This allows final beneficiaries to compare offers of different commercial credit institutions and choose the financial intermediary that to the largest extent possible passes advantage on to them. Guarantees are issued for new loans, which conditions for beneficiaries should be more favorable than those of the loans available on the market. This can be for example loans with lower interest rates or loans granted with lower requirements collateral. This constitutes an important advantage for final beneficiaries. Finally, the Commission takes into account that the measure introduces a cap on the interest rate of the underlying loan of 2 percent per annum. The safeguards thus ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (21)(k)). The measure therefore complies with points 28 to 31 of the Temporary Framework

- 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 (21)(c)).

- The cumulation rules set out in point 24bis of the Temporary Framework are respected (recitals (25) and (26)).

(45) The Croatian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected for both measures (recital (27)). The Croatian authorities further confirm that the aid under the measures may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (Section 2.8).

(46) The Commission therefore considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since they meet all the relevant conditions of the Temporary Framework.

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

(47) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"**BRRD**"**)[17] 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 the BRRD.

(48) 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.[18] Nevertheless, any such indirect aid granted under the measures does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measures 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 measures does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD.

(49) Moreover, as indicated in recitals (20)(j) and (21)(k) above, the measures introduce 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 measures to the final beneficiaries.

(50) The Commission therefore concludes that the measures do not violate any intrinsically linked provisions of the BRRD.

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

[18] 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.

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