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**Subject: State Aid SA.59289(2020/N) – Germany  
COVID-19: Rahmenregelung zur Gewährung von Unterstützung für  
ungedeckte Fixkosten im Geltungsbereich der Bundesrepublik  
Deutschland im Zusammenhang mit dem Ausbruch von Covid-19**

Excellency,

## 1. PROCEDURE

- (1) Following pre-notification contacts,<sup>1</sup> by electronic notification of 17 November 2020, the German authorities notified a framework scheme for aid in the form of support for uncovered fixed costs (“Regelung zur Gewährung von Unterstützung für ungedeckte Fixkosten im Geltungsbereich der Bundesrepublik Deutschland im Zusammenhang mit dem Ausbruch von Covid-19 (“Bundesregelung Fixkostenhilfe 2020”)”), the “framework scheme”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).<sup>2</sup>

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<sup>1</sup> By email dated 26 October 2020, the German authorities pre-notified the framework scheme.

<sup>2</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 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, 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, by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3 and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the

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- (2) Germany 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<sup>3</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE FRAMEWORK SCHEME**

- (3) The German federal government and the governments of the Länder have decided to establish a framework for measures based on Article 107(3)(b) TFEU and the newly introduced section 3.12 of the Temporary Framework.
- (4) Germany sees those aid measures to be granted under the framework scheme as a means to *inter alia* respond to a new surge of infections and the threatened overburdening of the health system occurring in autumn 2020. In response to that new surge, the German authorities introduced a second shutdown for November on significant parts of the economy and cultural life. That second lockdown followed a previous closure of large part of the Member State’s economic and cultural life in March and April 2020. As a consequence, those sectors of the economy that were hit already by the shutdown imposed in March and April were further affected by the November shutdown. By means of its so-called “Novemberhilfe” package,<sup>4</sup> Germany seeks already to provide support for those undertakings exposed to the most severe economic effects of the second shutdown decision, comprising economic assistance for companies, businesses, self-employed individuals, associations and institutions whose operations are temporarily closed or significantly affected by the shutdown.
- (5) Germany confirmed that the aid under the framework scheme is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

### **2.1. The nature and form of aid**

- (6) The measure examined in this decision is a framework scheme that will be applied by the German federal and Länder authorities to provide aid to cover uncovered fix costs in the form of direct grants, guarantees and loans.

### **2.2. Legal basis**

- (7) The national legal basis for the framework scheme is “Regelung zur Gewährung von Unterstützung für ungedeckte Fixkosten im Geltungsbereich der Bundesrepublik Deutschland im Zusammenhang mit dem Ausbruch von Covid-19 (Bundesregelung Fixkostenhilfe 2020)“ (“BR FKH”).

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economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340 I, 13.10.2020, p. 1.

<sup>3</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ L 6, 10.1958, p. 385.

<sup>4</sup> “Novemberhilfe” is a support programme announced by the German federal state to support business suffering turnover losses following the shutdown in November 2020.

### **2.3. Administration of the framework scheme**

- (8) The aid granting authorities are the German authorities at the federal level and in the 16 German *Länder* which are in their respective territory responsible for administering the measures of the federal and regional level.

### **2.4. Budget and duration of the framework scheme**

- (9) The German authorities estimate that the volume of potential compensation payments amounts to approximately EUR 30 billion.
- (10) Aid may be granted under the framework scheme as from its approval until no later than 30 June 2021.

### **2.5. Beneficiaries**

- (11) The final beneficiaries of the framework scheme are SMEs and large enterprises.<sup>5</sup> Financial institutions are excluded as eligible final beneficiaries.
- (12) Aid may not be granted under the framework scheme to medium<sup>6</sup> and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>7</sup> on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid<sup>8</sup> or restructuring aid.<sup>9</sup>
- (13) Aid is granted under the framework scheme either directly or in case it is given in the form of loans and guarantees through credit institutions and other financial institutions as financial intermediaries.

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<sup>5</sup> As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

<sup>6</sup> As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

<sup>7</sup> 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, 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, 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, 24.12.2014, p. 37.

<sup>8</sup> Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

<sup>9</sup> Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

## 2.6. Sectoral and regional scope of the framework scheme

- (14) The framework is open to all sectors except the financial sector. It applies to the whole territory of Germany.

## 2.7. Basic elements of the framework scheme

- (15) The framework scheme envisages that the German authorities contribute to the uncovered fixed costs of those undertakings for which the COVID-19 outbreak resulted in the suspension or reduction of their business activity.
- (16) Pursuant to Article 2 § 1 BR FKH, the individual measures under the framework scheme (“the individual measures”) may be granted no later than 30 June 2021 and cover uncovered fixed costs incurred during the period between 1 March 2020 and 30 June 2021, including such costs incurred in part of that period.
- (17) Pursuant to Article 2 § 2 BR FKH, the individual measures may only be granted to undertakings that suffer a decline in turnover during the eligible period of at least 30% compared to the same period in 2019, a comparison made for a period in 2020 or 2021 with the respective period in 2019.<sup>10</sup> The turnover decline must be substantiated and confirmed by the applicant when submitting an application.
- (18) Uncovered fixed costs are defined in Article 3 BR FKH, whereby:
- (a) Fixed costs are those costs which are:
- incurred by undertakings during the period defined in recital (16),
  - during the same period not covered by the profit contribution (i.e. revenues minus variable costs) and
  - not covered by other sources, including
    - insurance,
    - temporary aid measures granted under the Temporary Framework or
    - support from other sources.
- (b) Uncovered fixed cost are the losses of undertakings resulting from their financial statements during the eligible period defined in recital (16).<sup>11</sup>
- (c) The individual measures can be granted *ex ante* based on forecasted losses, while the final amount of aid will be determined *ex post* after realisation of the losses on the basis of audited accounts. Germany has

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<sup>10</sup> When granting aid to micro and small-sized enterprises it can be envisaged that for the determination of the relevant turnover decline, the eligible months in 2020 or 2021 are compared with one twelfth of the company's total turnover in 2019.

<sup>11</sup> One-off impairment losses are not included in the calculation of the losses under the framework scheme.

explained that not all undertakings to benefit from the framework scheme are required to prepare audited accounts. For undertakings that are not obliged to have audited accounts according to domestic law,<sup>12</sup> the *ex post* determination can be based on the tax accounts or another determination of profits in line with the accounting rules of the HGB and the tax laws. For undertakings that are not obliged to have commercial accounts (see § 241a HGB<sup>13</sup>) the *ex post* determination can be based on the tax accounts or another determination of profits under the tax law.<sup>14</sup> Any payment exceeding the final amount of the aid will be recovered.

- (d) The individual measures can be granted *ex ante* based on the actual uncovered fixed costs of the beneficiary incurred in the period prior to the determination and payment of the aid amount. Instead of audited accounts or tax accounts, the actual uncovered fixed costs may be demonstrated by a tax advisor, lawyer or chartered accountant *ex ante* on the basis of unaudited consecutive monthly financial reports, in line with the accounting rules of the HGB and the tax law. Germany argues that those reports are sufficiently reliable because the monthly data, based on accounting rules are generally recognized in business transactions as evidence of the current situation of undertakings and are common practice.<sup>15</sup> The advisor in the application process (tax advisor, lawyer or chartered accountant) will be obliged to verify, upon finalisation of the audited accounts or tax accounts for the relevant period, whether the amount of uncovered losses stemming from the unaudited consecutive monthly financial reports exceeds the figures resulting from the audited or tax accounts or another determination of profits under the tax law. In that case, the applicant would need to reimburse the respective amount *ex post*.
- (19) Pursuant to Art 2 § 4 BR FKH the aid intensity will not exceed 70% of the uncovered fixed costs, except for micro and small companies (within the meaning of Annex I of the GBER), where the aid intensity will not exceed 90% of the uncovered fixed costs. Germany maintains the right to lower those caps in the implementation law, which may also be related to other indicators such as the undertakings' turnover over a comparable period.
- (20) Pursuant to Art 2 § 5 BR FKH overall aid from the framework scheme will not exceed EUR 3 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge.

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<sup>12</sup> See § 316 of the German commercial Law ("HGB"). Only large companies within the meaning of Section 316 HGB in conjunction with Section 267 HGB are required to draw up audited annual accounts.

<sup>13</sup> SME with a turnover of not more than EUR 600 000 or not more profit than EUR 60 000 in two consecutive years.

<sup>14</sup> For example an income statement based on an income surplus calculation (Einnahme-Überschussrechnung) laid down in § 4 Abs. 3 EStG.

<sup>15</sup> Germany submits that an example of such monthly reporting in line with the accounting rules of the HGB and the tax law would be the "Betriebswirtschaftliche Auswertung", which is used by the majority of companies.

- (21) Regarding ‘loans’ that are granted via credit institutions and other financial institutions as financial intermediaries, Germany explained that there will be no indirect advantage for the latter. Germany confirmed that, in the case of loans granted through credit institutions or other financial intermediaries (“bankdurchgeleitete Darlehen”), the aid granting authority determines an interest rate at which the loans to the final recipient must be awarded by the financial intermediaries. The interest rate shall be returned to the aid granting authority, less a predetermined profit margin. The profit margin is calculated to cover the running costs of the financial intermediaries related to the servicing of the loan. In addition, the financial intermediaries receive a one-off fee set by the granting authority to cover their fixed costs

## **2.8. Cumulation**

- (22) The German authorities confirm that aid granted under the framework scheme may not be cumulated with other aid for the same eligible costs.
- (23) The German authorities confirm that aid granted under the framework scheme may be cumulated with aid under de minimis Regulations<sup>16</sup>, the General Block Exemption Regulation<sup>17</sup>, Regulation 702/2014<sup>18</sup> or Regulation 1388/2014<sup>19</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (24) The German authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the framework scheme or aid under other measures approved by the Commission under section 3.12 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 87(d) of that framework, will be respected.
- (25) The German authorities confirm that aid under the framework scheme may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

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<sup>16</sup> 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, 26.4.2012, p. 8).

<sup>17</sup> 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.

<sup>18</sup> 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.

<sup>19</sup> 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 on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

- (26) The German authorities confirm that aid granted under the framework scheme 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.

## **2.9. Monitoring and reporting**

- (27) The German 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 above EUR 100 000 granted under the framework scheme and EUR 10 000 in the agricultural and fisheries sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>20</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the framework scheme**

- (28) By notifying the framework scheme before putting it into effect, the German 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. 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 framework scheme is imputable to the State, since it is administered by aid granting authorities of the German authorities at the federal level and in the 16 German Länder, which are in their respective territory responsible for administering the measures of the federal and regional level (recital (6)) and it is based on „Regelung zur Gewährung von Unterstützung für ungedeckte Fixkosten im Geltungsbereich der Bundesrepublik Deutschland im Zusammenhang mit dem Ausbruch von Covid-19 (Bundesregelung Fixkostenhilfe)“. It is financed through State resources, since it is financed by public funds.
- (31) The framework scheme confers an advantage on its beneficiaries in the form of direct grants, guarantees and loans at rates that are better than those in the market (recital (6)). It thus confers an advantage which those beneficiaries would not have had under normal market conditions or relieves them of costs which they would have had to bear under normal market conditions.
- (32) The advantage granted by the framework scheme is selective, since it is awarded only to certain undertakings pursuant to the conditions of eligibility for the aid

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<sup>20</sup> Referring to information required in Annex III to Commission Regulation (EU) No 651/2014, Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014. *For guarantees and loans and other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary.*

(recitals (12) to (14) and (17)). Moreover, the measure excludes the financial sector.

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

### 3.3. Compatibility

- (35) Since the framework scheme 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 (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 framework scheme is one of a series of measures conceived at national level by the German authorities to remedy a serious disturbance in their economy. The importance of the measure to, *e.g.*, stimulate economic continuity is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire German economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of support for uncovered fixed costs*”) described in section 3.12 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.
- (39) 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 section 3.12 of the Temporary Framework:
- Aid is granted under the measure no later than 30 June 2021 and covers uncovered fixed costs incurred during the period between 1 March 2020 to 30 June 2021, including such costs incurred in part of that period (recital (16)). The measure therefore complies with point 87(a) of the Temporary Framework;
  - Aid is granted under the measure on the basis of a scheme to undertakings that suffer a decline in turnover during the eligible period of at least 30%



compared to the same period in 2019 (recital (16)). The measure therefore complies with point 87(b) of the Temporary Framework;

- Uncovered fixed costs are defined under the measure in accordance with point 87(c) of the Temporary Framework and the aid intensity will not exceed 70% of the uncovered fixed costs, except for micro and small companies, where the aid intensity will not exceed 90% of the uncovered fixed costs (recital (19)). The actual losses of undertakings from their profit and loss statements during the eligible period<sup>21</sup> are considered to constitute uncovered fixed costs. The aid under this measure may be granted based on forecasted losses, while the final amount of aid will be determined after realisation of the losses based on audited accounts or based on tax accounts with ex post checks carried out by the aid granting authority. The German authorities have adequately justified that for undertakings that are not required to produce audited commercial accounts under §316 HGB or accounts at all under §241a HGB, the use of the tax accounts or other means in line with the accounting rules of the German commercial code and the tax laws is sufficient (recital (18)(c)). Furthermore, the German authorities have adequately justified that aid under this measure may be granted also based on unaudited consecutive monthly financial reports (recital (18)(d)) which show the undertaking's realized losses before the request of the aid. They have shown that those monthly financial reports and the data included therein are sufficiently reliable to meet the standards of accounting rules as they are common practice in business transactions and are accepted as record of financial status of undertakings. In addition, the advisor in the application process (tax advisor, lawyer or chartered accountant) will be obliged to verify upon finalisation of the audited accounts or tax accounts for the relevant period whether the amount of uncovered losses stemming from the unaudited consecutive monthly financial reports exceeds the figures resulting from the audited or tax accounts, ensuring that the applicant reimburses the respective amount *ex post* on his own initiative. Moreover, Germany also commits that any payment exceeding the final amount of the aid must be recovered (recital (18)(c)). The measure therefore complies with point 87(c) of the Temporary Framework;
- The aid takes the form of grants, guarantees and loans (recital (6)). The overall nominal value of grants, guarantees and loans will not exceed EUR 3 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (20)). The measure therefore complies with point 87(d) of the Temporary Framework;
- Aid may not be granted under the measure to medium<sup>22</sup> and large enterprises that were already in difficulty on 31 December 2019 (recital (12)). Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of

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<sup>21</sup> One-off impairment losses are not included in the calculation of the losses.

<sup>22</sup> As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid<sup>23</sup> or restructuring aid<sup>24</sup> (recital (12)). The measure therefore complies with point 87(f) 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 safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (21)). The measure therefore complies with points 28 to 31 of the Temporary Framework.

- (40) The German authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (27)). The German authorities further confirm that the aid under the measure 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 (recital (22)).
- (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 (“BRRD”)<sup>25</sup> and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (“SRMR”),<sup>26</sup> 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 and the SRMR.
- (43) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channelled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.<sup>27</sup> 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

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<sup>23</sup> Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

<sup>24</sup> Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

<sup>25</sup> OJ L 173, 12.6.2014, p. 190.

<sup>26</sup> OJ L 225, 30.7.2014, p. 1.

<sup>27</sup> Points 6 and 29 of the Temporary Framework.

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 Article 2(1)(28) BRRD and Article 3(1)(29) SRMR.

- (44) Moreover, as indicated in recital (21) 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.
- (45) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD and the 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) 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