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Subject: State Aid SA.59681 (2020/N) – Italy
COVID-19: Prolongation and amendment of SA.56963, SA.57289 and SA.57937

Excellency,

1. PROCEDURE

(1) By electronic notifications of 20 November and 1 December 2020, Italy notified a set of amendments ("the measures") to the following existing aid schemes ("the existing schemes") which the Commission had already approved under Article 107(3)(b) of the Treaty on the Functioning of the European Union ("TFEU") and, where applicable, in light of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework") [1]:

[1] 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 economy in the current COVID-19 outbreak and amendment to the Annex to the Communication

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(a) SA.56963 (2020/N): *Guarantee scheme under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak*, which the Commission approved by decision C(2020) 2371 of 13 April 2020;

(b) SA.57289 (2020/N): *Capital-strengthening measures for medium-sized companies* which the Commission approved by decision C(2020) 5443 of 31 July 2020;

(c) SA.57937 (2020/N): *State guarantee for the reinsurance of trade credit risks* which the Commission approved by decision C(2020) 5650 of 13 August 2020.

(2) Italy 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.

2. DESCRIPTION OF THE MEASURES

2.1. The existing schemes

(3) The existing scheme SA.56963 provides for State aid in the form of guarantees on loans granted by financial intermediaries to beneficiaries registered in Italy (recitals (14) to (19) of the initial decision in case SA.56963). It was assessed under section 3.2 of the Temporary Framework.

(4) The existing scheme SA.57289 is composed of three different measures, assessed under section 3.1, section 3.2 and section 3.3 of the Temporary Framework:

(a) Measure A provides aid in the form of non-repayable subsidy to small and medium-sized undertakings (the "investee undertakings") associated with a tax credit for the investors that invest in those investee undertakings (recitals (15) to (22) of the initial decision in case SA.57289), the aid to investors was assessed directly under Article 107(3)(b) TFEU by analogy with the Temporary Framework;

(b) Measure B provides aid in the form of tax credit scheme for small and medium-sized undertakings (recitals (23) to (27) of the initial decision in case SA.57289);

(c) Measure C provides aid in the form of subordinated debt for medium-sized undertakings (recitals (28) to (34) of the initial decision in case SA.57289).

(5) The existing scheme SA.57937 provides for State aid in the form of a State reinsurance scheme to trade credit insurers in order to limit the risks associated

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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.

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

with granting insurance to Italian trade credit risks, provided in return for a commitment given by the insurance industry operators (recitals (20) to (36) of the initial decision in case SA.57937). It was assessed directly under Article 107(3)(b) TFEU, with reference to section 3.2 of the Temporary Framework and with reference to the Short-term export Credit Communication. [3]

2.2. The proposed amendments

(6) On 13 October 2020, the Commission adopted a Communication[4] prolonging until 30 June 2021 the validity of the Temporary Framework, which would otherwise expire at the end of 2020. For recapitalisation measures, the validity was prolonged from 30 June 2021 to 30 September 2021.

(7) Following the prolongation of the Temporary Framework, the Italian authorities would like to extend the duration of the existing aid schemes until 30 June 2021, with the exception of Measure A of the existing scheme SA.57289 (see recital (10)).

(8) As was the case also for the existing schemes, the prolongation and amendments to the measures aim at ensuring that sufficient liquidity remains available in the market. They aim to counter the liquidity shortage faced by undertakings because of the COVID-19 outbreak and ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings, thereby preserving the continuity of economic activity during and after the outbreak.

(9) With regard to the aid scheme approved under SA.56963, the Italian authorities have notified the following modifications:

(a) Safeguards to ensure that the aid reaches the undertakings (recital (19) of the initial decision in case SA.56963) are re-modulated in the case the guarantees are used for refinancing existing (unguaranteed) loans. Financial intermediaries that have granted these loans will need to (i) agree on a renegotiation plan, (ii) provide additional financing equal to at least 25% of the loan amount subject to the renegotiation, and (iii) lower the charged interest rate or increase the maturity compared to the terms of the loan subject to the renegotiation.

(b) An additional measure (“the additional measure”) is added, whereby SACE[5] provides mid-caps companies that, under the scheme SA.56963, benefit from the guarantees on loans up to a nominal amount of EUR 5 million, with a grant equal to the present value of the fees due under the

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3 OJ C 392, 19.12.2012, p. 1.

4 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 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.

5 SACE is the Italian Export Credit Agency, wholly owned by Cassa depositi e prestiti S.p.A in the capital of which the Italian Ministry of Economy and Finance holds 82.77% of the shares.

guarantee. In any case the amount of the grant cannot exceed the following ceilings:

- EUR 100,000 per undertaking active in the primary production of agricultural products;
- EUR 120,000 per undertaking active in the fishery and aquaculture sector;
- EUR 800,000 per undertaking active in all other sectors.

(c) The present value of the fees are calculated on a yearly basis on the guaranteed amount of the residual debt of the loan, applying the premiums shown in Table 1, presented in recital 16(b) of the initial decision in case SA.56963, discounted to the date the guarantee is granted, using the discount rate calculated in accordance with the 2008 Communication from the Commission on the revision of the method for setting the reference and discount rates[6].

(d) According to the Italian authorities, the budget estimated by Italy for this additional measure amounts to EUR 5 billion.

(e) The Italian authorities have confirmed that:

– aid granted to undertakings active in the processing and marketing of agricultural products[7] is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned;

– aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market;

– aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1(1)(a) to (k) of Commission Regulation (EU) No 717/2014[8]; and

– where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, the Italian authorities will

[6] Communication from the Commission on the revision of the method for setting the reference and discount rates, OJ C 14, 19.1.2008, p. 6.

[7] As defined in Article 2(6) and Article 2(7) of 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.

[8] Commission Regulation (EC) No (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 90, 28.6.2014, p. 45.

ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities.

(10) With regard to the aid schemes approved under SA.57289, the Italian authorities notified the following modifications:

(a) Measure A of the initial decision will not be prolonged after 31 December 2020.

(b) Measure B of the initial decision will be amended as follows:

- The latest date until which individual aid will be granted under the notified measure will be 30 June 2021 for approving and executing the capital increase and 30 November 2021 for using the tax credit.

- The percentage of the capital increase, which can benefit from the tax credit, will be raised from 30% to 50%, without prejudice to the compliance with the maximum amount of aid provided under this measure, in line with section 3.1 of the Temporary Framework.

- It will be possible to use the tax credit to offset other tax liabilities only after ten days have lapsed from the day of the capital increase, subsequently the approval of 2020 financial statement and no later than 30 November 2021.

- However, the Italian authorities note that the initial budget of the measure (EUR 2 billion, together with measure A) has not been amended.

(c) Measure C of the initial decision will be amended as follows:

- Aid in the form of subordinated debt can be granted by 30 June 2021 at the latest.

- As a precondition, the beneficiaries would be required to approve and execute a capital increase from private sources of at least EUR 250.000 by 30 June 2021 at the latest.

- The beneficiaries will no longer have the option to pay interests accrued annually and capitalised, on the redemption date.

- The budget attached to the measure C for 2021 is reduced from EUR 4 billion to EUR 1 billion.

(11) With regard to the aid scheme approved under SA.57937, the Italian authorities explain that because the ongoing outbreak of COVID-19 continues to create extraordinarily high uncertainty in the economy, and consequently, a large number of companies operating in Italy continues to face liquidity problems and a credit crunch unless provided with continued support in the form of trade credit insurance.

(12) In this context, Italian authorities notified the following modification, which is directly linked to the prolongation of the scheme referred to in recital (7). As the scheme only covers risks arising from short term trade credit (i.e. less than 24

months) granted by a supplier of goods or services to a buyer under a commercial agreement, the date of issuance of the relevant invoices (regardless of the date of conclusion of the relevant agreement) needs to fall between 1 April 2020 and 30 June 2021 and the date of payment needs to fall between 1 April 2020 and 31 December 2022 (recital (19) of the initial decision in case SA.57937).

(13) Italy confirmed that the aid under the measure 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.

(14) The Italian authorities confirmed that all other conditions of the existing aid schemes remain unchanged.

(15) The legal basis for the proposed amendments are the following:

(a) SA.56963: Article 35 of Draft Budget Law, paragraphs 1, 3 and 5;

(b) SA.57289: Article 42 of Draft Budget Law;

(c) SA.57937: Article 38 of Draft Budget Law.

(16) The measures will only be put into effect after the Commission's approval.

3. ASSESSMENT

3.1. Lawfulness of the measures

(17) By notifying the measures before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(18) 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.

(19) The qualification of the existing schemes as State aid was established in the initial decisions[9]. The proposed modifications do not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decisions and concludes that the existing aid schemes as modified by the measures constitute State aid in the meaning of Article 107(1) of the TFEU.

[9] Recitals (26) to (31) of the Commission Decision C(2020) 2371 of 13 April 2020 on case SA.56963; recitals (43) to (49) of the Commission Decision C(2020) 5443 of 31 July 2020 on case SA.57289 and recitals (39) to (45) of the Commission Decision C(2020) 5650 of 13 August 2020 on case SA.57937.

3.3. Compatibility

(20) The Commission assessed the existing aid schemes on the basis of Article 107(3)(b) TFEU and in light of the Temporary Framework where appropriate, and concluded that they were compatible with the internal market.

(21) The Commission refers to its analysis of compatibility as set out in the initial decisions[10].

(22) The Commission has examined the notified modifications referred to in recitals (6) to (16) and notes that there are no other alterations to the existing aid schemes.

(23) With regard to the existing scheme SA.56963, the Commission notes that these modifications do not affect the compatibility assessment of the respective initial decision, in so far as the safeguards to ensure that aid is passed to the final beneficiary continue to meet the requirements laid down in Section 3.4 of the Temporary Framework and the additional measure meets all the applicable conditions provided for by the Section 3.1 of the Temporary Framework:

(a) The aid will be granted in the form of direct grants, as laid down in paragraph 22(a) of the Temporary Framework.

(b) The maximum aid amount per undertaking will not exceed the overall cap of EUR 800,000 (before deduction of tax or other charges), as laid down in paragraph 22(a) of the Temporary Framework.

(c) For undertakings that are active in the (i) fishery and aquaculture sector, and in the (ii) primary production of agricultural products, the maximum aid amount per undertaking does not exceed EUR 120,000 and EUR 100,000, respectively, as laid down in paragraph 23(a) of the Temporary Framework.

(d) The estimated budget of the measure is indicatively provided by Italy. Therefore, the condition of paragraph 22(b) of the Temporary Framework is considered to be met.

(e) In compliance with paragraph 22(c) of the Temporary Framework, the aid will only be granted to undertakings, which were not already in difficulty on 31 December 2019 (recital (11) of the initial decision in case SA.56963).

(f) The aid will be granted no later than 30 June 2021, hence the condition set out in paragraph 22(d) of the Temporary Framework is met.

(g) As the aid is granted in the form of grants to cover the costs of guarantees on loans, aid granted to undertakings active in the processing and marketing of agricultural products is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the

[10] Recitals (32) to (37) of the Commission Decision C(2020) 2371 of 13 April 2020 on case SA.56963; recitals (50) to (80) of the Commission Decision C(2020) 5443 of 31 July 2020 on case SA.57289 and recitals (46) to (90) of the Commission Decision C(2020) 5650 of 13 August 2020 on case SA.57937.

market by the undertakings concerned. Moreover, the aid will be conditional on not being partly or entirely passed on to primary producers. Hence, the condition set out in paragraphs 22(e) and 23(b) of the Temporary Framework is met.

(h) As the aid is granted in the form grants to cover the costs of guarantees on loans, aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k), of Commission Regulation (EU) No 717/2014, as laid down in paragraph 23(c) of the Temporary Framework.

(i) The Italian authorities confirm that, where an undertaking is active in several sectors, to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Italy ensures, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities, as laid down in paragraph 23bis of the Temporary Framework.

(24) With regard to SA.57289, the Commission notes that these modifications do not affect the compatibility assessment, in so far as:

(a) Measure A will cease to apply from 1 January 2021.

(b) As regards Measure B:

- Aid will be granted under the measure no later than 30 June 2021. For aid in form of tax advantages, the tax liability in relation to which that advantage is granted must have arisen no later than 30 June 2021. The measure therefore complies with point 22(d) of the Temporary Framework.

- The increase of the percentage of the capital increase that can benefit from the tax credit does not affect the compliance with the maximum amount of aid provided under this measure, in line with point 22(a) of the Temporary Framework.

(c) As regards Measure C, the modifications of (i) the eligibility conditions for beneficiaries linked to the completion of a capital increase by 30 June 2021 at the latest, (ii) the maximum deadline for aid to be provided by 30 June 2021 at the latest, (iii) the deletion of the option to pay interests, accrued and capitalised, on the redemption date and (iv) the revision of the budget do not alter the compliance with the provisions of section 3.3 of the Temporary Framework.

(25) With regard to SA.57937, the Commission notes that the modification does not affect the compatibility assessment, in so far as the scheme will be prolonged to cover transactions between 1 January 2021 and 30 June 2021. The Commission considers that:

(a) Such a continuation of coverage is in line with the possibilities of Section 3.2 as applicable following the fourth amendment of the Temporary Framework;

(b) The reasoning of the initial decision in case SA.57937, namely to avoid a situation where trade credit insurers substantially reduce limits as normal risk remediation technique, continues to be valid.

(26) In this context, and in particular the Temporary Framework (following the fourth amendment), which continues to be applied in analogy, the proposed prolongation to cover transactions until 30 June 2021 is appropriate, necessary, and proportional.

(27) The Commission considers that the prolongation of the existing aid schemes and these limited modifications have no impact on the compatibility of the existing schemes, as amended by the measure, with Article 107(3)(b) TFEU and the relevant conditions of the Temporary Framework, and do not alter the Commission's conclusions on the compatibility of the existing schemes in the initial decisions.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the modifications to the aid schemes SA.56963 (2020/N), SA.57289 (2020/N) and SA.57937 (2020/N) on the grounds that they are 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

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION