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Subject: **State Aid SA.101494 (2022/N) – Hungary**
COVID-19: Investment support scheme towards a sustainable recovery

Excellency,

1. PROCEDURE

(1) By electronic notification of 13 January 2022, Hungary notified an aid scheme in the form of loans for investment support towards a sustainable recovery (the "measure") under section 3.13 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the "Temporary Framework").[1] Hungary provided additional information on 27 January, 2 and 3 February 2022.

(2) Hungary 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[2] and to have this Decision adopted and notified in English.

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[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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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

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2. DESCRIPTION OF THE MEASURE

(3) Hungary considers that the COVID-19 pandemic continues to affect the real economy. The measure forms part of an overall package of measures and aims to support private investment as a stimulus to overcome an investment gap accumulated in the economy due to the crisis.

(4) Hungary confirms 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.

(5) The compatibility assessment of the measure is based on Article 107(3)(c) TFEU, in light of sections 2 and 3.13 of the Temporary Framework.

2.1. The nature and form of the aid

(6) The measure provides aid in the form of soft loans, i.e. with more favourable conditions than market terms (see, in particular, recitals (29) and (32)).

2.2. Legal basis

(7) The legal basis for the measure is Section 2(1) of Act XLII of 1994 on the Hungarian Export-Import Bank Corporation and the Hungarian Export Credit Insurance Corporation and the detailed terms and conditions that will be set out in Eximbank's product descriptions and the contracts for the loans referred to in recital (6). Those "contracts" refer to the contracts that will be concluded (i) between Eximbank and the financial intermediaries, (ii) between the financial intermediaries and the final beneficiaries and (iii) between Eximbank and final beneficiaries (in case of direct financing).

(8) The Hungarian authorities indicate that the scheme will be applied after the notification of the Commission's decision approving the measure.

2.3. Administration of the measure

(9) The State-owned Hungarian Export-Import Bank Private Limited Company (hereinafter, "Eximbank") (in Hungarian "*Magyar Export-Import Bank Zártkörűen Működő Részvénytársaság*") will be responsible for administering the measure.

(10) The aid will be granted directly by Eximbank for a part, and channelled through credit and financial institutions as intermediaries for the rest (approximately 80-90 % of the aid budget)[3]. With regard to the latter, the Hungarian authorities confirmed that Eximbank transfers the nominal amount of the loans to the credit institution, which in turn transfers it to the final beneficiaries upon a loan agreement.[4] The Hungarian authorities also confirmed that the intermediary credit

[3] See also recital 0: both types of loans (A and B) are available through financial intermediaries and through direct lending by Eximbank.

[4] The financial institution is then obliged to repay the loan back to Eximbank.

institution needs to submit the loan contract duly signed and the application for aid to the granting authority before any aid is disbursed by the State.

(11) The measure introduces safeguards in relation to the possible indirect aid in favour of the credit and financial institutions channelling the aid in order to limit undue distortions of competition. Provisions for those safeguards will be included in the contract. The safeguards aim at ensuring that the advantage, when provided through a financial intermediary, is passed on to the final beneficiaries. First, the measure will be open to all financial institutions acting as intermediaries that express their interest in participating in the scheme, under the same conditions. Second, Eximbank will set the maximum interest rates for the loan contracts between the financial institutions and the final beneficiaries to be the average market interest rates regularly published by the Hungarian Central Bank (Magyar Nemzeti Bank or "MNB"[5]). Therefore, the intermediary can apply interest rates that are lower than such upper limit[6]. The Hungarian authorities note that the final rate will be driven by the competition for the clients among the intermediaries. In addition, the default risk of the final beneficiary is fully borne by the intermediary financial institution. Therefore, the financial institution would be obliged to repay the loan to Eximbank even in the case of default by the final beneficiary. Finally, the fees applied by the financial institutions are capped: intermediaries are only allowed to charge a one-off fee up to 0.5% and a commitment fee up to 0.2% of the loan amount[7]. Other fees, such as amendment fees or prepayment fees, cannot be charged. Furthermore, Eximbank monitors the application of rates and fees based on internal rules.

2.4. Budget and duration of the measure

(12) The estimated budget of the measure (and overall maximal nominal amounts of loans) is EUR 2 000 million, financed from Eximbank's own funds.

(13) The measure will not be co-financed by the European Structural and Investment Funds (ESIF), the European Union Solidarity Fund (EUSF) nor the Coronavirus Response Investment Initiative (CRII).

(14) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 31 December 2022.

(15) Beneficiaries can submit an application for aid until 15 December 2022.

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[5] https://www.mnb.hu/web/en.

[6] The intermediary "bank spread" (the difference between the maximum interest rate paid by the final beneficiary and the funding costs paid by the intermediaries to Eximbank) is determined as the difference between the average market interest rates (by segments) and the average interbank funding cost.

[7] If the financial institutions also pay for notary and/or evaluation services related to the loan they are allowed to charge these fees.

2.5. Beneficiaries

(16) The final beneficiaries of the measure are small and medium size enterprises ("SMEs")[8] and large enterprises active in Hungary. However, credit and financial institutions are excluded as eligible final beneficiaries. The Hungarian authorities note that up to 100 000 enterprises are eligible[9].

(17) Aid may not be granted under the measure to medium and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[10], the Agricultural Block Exemption Regulation ("ABER")[11] or the Fisheries Block Exemption Regulation ("FIBER")[12] on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER, ABER or FIBER 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[13] or restructuring aid.[14]

2.6. Sectoral and regional scope of the measure

(18) The measure is open to all sectors, except the financial sector and[15]. In addition, the following industries and activities are specifically excluded from the scope of the measure: the exploration, production or use of fossil fuels for energy production; investments by nuclear power plants or related suppliers if the aided activity (i.e. the investment) of the supplier is related to the core activity of the nuclear plant; and investments that entail the destruction of forests, the worsening of the quality of the surface or groundwater, and the endangerment of biodiversity.

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[8] 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.

[9] The Hungarian authorities note that the estimated number of beneficiaries actually benefiting from the measure will be between 500 and 1 000.

[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, 26.6.2014, p. 1.

[11] As defined in 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.

[12] 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.

[13] 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.

[14] 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.

[15] The Hungarian authorities estimate that beneficiaries are expected to be active mainly in the manufacturing, services and agricultural sectors.

(19) The measure applies to the whole territory of Hungary. The Hungarian authorities note that there are no geographical limitations.

2.7. Basic elements of the measure

(20) The loans may be granted in order to finance sustainable investments that improve production and/or service capacity or quality. Such sustainable investments are eligible if they comply with the Taxonomy Regulation (EU) 2020/852[16] and/or the 'Green capital requirement' rules issued by the National Bank of Hungary[17]. The characteristics of such sustainable investments are described in the 'preferential capital requirements program for green corporate and municipal financing of the MNB'[18].

(21) The Hungarian authorities confirm that aid under the measure does not support activities in breach of the "Do-No-Significant-Harm" principle. To this effect, as noted in recital (18), potentially harmful industries and activities are excluded from the scope of the scheme. It is obligatory to attach a questionnaire on 'environmental and social impact assessment'[19] to all grant applications and to support its contents with documents if necessary. During the annual monitoring it is mandatory to monitor the fulfilment of DNSH principle as well.

(22) The aid is granted on the basis of a scheme. The Hungarian authorities commit that the maximum individual aid amount that may be granted per undertaking will not exceed 1% of the total budget available, in compliance with point 89(a) of the Temporary Framework.

(23) The eligible costs under the measure are only the costs of investments in tangible and intangible assets. Costs related to purchasing land may be included only in as far as they are part of an investment for production of goods or provision of services. Financial investments are not eligible. A minimum of 25% of eligible costs should be spent for sustainability purposes.

(24) The Hungarian authorities confirm that aid will only concern investments made after approval of the measure by the Commission.

(25) Aid may only be granted on the basis of a written application submitted to Eximbank (in case of direct lending) or to the financial intermediary (in case of financial intermediation) before works on the investment start.

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16 Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, OJ L 198, 22.6.2020, p. 13.

17 See, for more details, https://www.mnb.hu/letoltes/preferential-capital-requirements-for-green-corporate-and-municipal-financing-summary.pdf

18 The referred MNB programme, which was launched in the beginning of 2021, refers to a detailed set of eligibility criteria for sustainable economic activities based on the EU Taxonomy Regulation or CB Taxonomy rules (for activities not covered by EU Taxonomy) or MNB's own eligibility criteria.

19 Referred to by the Hungarian authorities as "EXIM questionnaire".

(26) The loans under the measure are granted under two types (“A” and “B”). The Hungarian authorities estimate that approximately 80% of the aid budget will be granted under type-A loans, and 20% under type-B loans. Both types are available through financial intermediaries and through direct lending by Eximbank. Beneficiaries can choose between types A or B. The measure does not provide for a possibility for conversion of the loans into grants.

2.7.1. Type A

(27) As regards loans under type A, the aid intensities will not exceed the limits defined in point 89(d) of the Temporary Framework.

(28) The aid granted under type-A loans will not exceed EUR 10 million per undertaking in nominal terms or the maximum aid amount calculated in accordance with Article 14 of the GBER, with the exception of Article 14(14) of the GBER and based on the applicable regional aid map[20], increased by EUR 10 million in nominal terms.

(29) The Hungarian authorities estimate that the duration of loans under type A will be between 6 to 8 years with a maximum of 8 years. In case of indirect lending, Eximbank will define in advance a fixed interest rate to be applied by financial intermediaries, taking into account the current interest rate environment. In case of direct lending, Eximbank will define favourable interest rates at the time of the program launch, having regard to the actual market situation.

2.7.2. Type B

(30) As regards loans under type B, the aid intensities shall not exceed the limits defined in point 96 of the Temporary Framework. The loans will have a maximum of 8 years maturity.

(31) According to the Hungarian authorities, the aid granted under type-B loans will not exceed EUR 15 million per undertaking in nominal terms or the maximum aid amount calculated in accordance with Article 14 of the GBER, with the exception of Article 14(14) of the GBER and based on the applicable regional aid map, increased by EUR 15 million in nominal terms.

(32) The interest rates and credit risk margins applied to loans by Eximbank and the financial intermediaries under type B are set to comply with points 27(a) or 27(b) of the Temporary Framework. In case an alternative minimum pricing of credit risk margins is introduced, in line with point 27(b) of the Temporary Framework, the flat levels applicable per year would be determined depending on the duration of the loan and on the type of recipient, in accordance with the table below. The flat levels are set in accordance with the levels approved by the Commission in case SA.58067 (2020/N)[21]. In case of loans with 7 or 8 years duration, the flat

[20] Commission Decision C(2021)6653 final, of 16.9.2021, in case State aid SA.63934 (2021/N) – Hungary - Regional aid map for Hungary (1 January 2022 – 31 December 2027).

[21] Commission Decision C(2020) 5384 final, of 30.7.2020, in case State Aid SA.58067 (2020/N) – Hungary.

levels are set in accordance with the levels as approved by the Commission in case SA.57252 (2020/N)[22].

Type of recipient	Duration ≤ 1 year	> 1 year and ≤ 2 years	> 2 years and ≤ 3 years	> 3 years and ≤ 4 years	> 4 years and ≤ 5 years	> 5 years and ≤ 6 years	> 6 years and ≤ 8 years
Small and medium enterprises	41 bps	47 bps	49 bps	69 bps	79 bps	86 bps	250 bps
Large enterprises	51 bps	81 bps	91 bps	136 bps	161 bps	176 bps	350 bps

2.8. Cumulation

(33) The Hungarian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[23] or the GBER, the ABER or the FIBER, provided the provisions and cumulation rules of those Regulations are respected.

(34) The Hungarian authorities also confirm that aid granted under the measure 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.

(35) The Hungarian authorities also confirm that aid under this scheme may be added to notifiable regional investment aid and cumulated with other types of aid under the conditions specified in point 20 of the Temporary Framework. Under no circumstances may the total aid amount exceed 100% of eligible costs. As a result, cumulation with other aid instruments that allow the coverage of a funding gap is excluded.

(36) The Hungarian authorities also confirm that, in the case of type B loans~~,~~ cumulation with other aid under section 3.13 of the Temporary Framework for the same eligible costs is excluded. This means in particular that no undertaking can receive both types of loans (A and B).

2.9. Monitoring and reporting

(37) The Hungarian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework

[22] Commission Decision C(2020) 4334 final, of 24.6.2020, in case State Aid SA.57252 (2020/N) – Italy.

[23] 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).

(including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and above EUR 10 000 in the primary agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[24]).

(38) In addition, the Hungarian authorities commit to provide to the Commission, by 30 June 2022, a list of measures put in place on the basis of the approved scheme.

3. ASSESSMENT

3.1. Lawfulness of the measure

(39) By notifying the measure before putting it into effect (see recitals (1) and (8)), the Hungarian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(40) 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.

(41) The measure is imputable to the State, since it is administered by Eximbank, a State-owned undertaking (recital (9)), and it is based on Section 2(1) of the Act XLII of 1994 on the Hungarian Export-Import Bank Corporation and the Hungarian Export Credit Insurance Corporation (recital (7)). It is financed through State resources, since it is financed by public funds from Eximbank, which is a State-owned entity (recital (12), read in conjunction with recital (9)).

(42) The measure confers an advantage on its beneficiaries in the form of soft investment loans with more advantageous terms such as favourable interest rates and alternative flat credit risk margins (recitals (6), (29) and (32)). The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.

(43) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, excluding undertakings active in the financial sector and performing certain activities considered by the Hungarian authorities as potentially harmful (recitals (16), (17) and (18)).

(44) 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.

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[24] Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014. For the aid in the form of loans, the nominal value of the underlying instrument shall be inserted per beneficiary.

(45) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Hungarian authorities do not contest that conclusion.

3.3. Compatibility

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

(47) Pursuant to Article 107(3)(c) TFEU, the Commission may declare compatible with the internal market "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*".

(48) When it amended the Temporary Framework on 18 November 2021, the Commission sought to provide options for Member States, to avoid a repetition of the post-crisis investment drop that occurred in the Union in the wake of the 2008 crisis, with the potential to hold back long-term growth. Investment support measures under section 3.13 of the Temporary Framework seek to overcome the negative economic effects of the crisis, including a widening of the investment gap. The measure, which covers a very wide sectorial scope, aims at supporting private investment in assets as a stimulus to overcome an investment gap accumulated in the economy as a whole due to the crisis. The measure has been designed to meet the requirements of the specific category of aid ("*Investment support towards a sustainable recovery*") described in section 3.13 of the Temporary Framework and the requirements for aid in the form of loans channelled through credit institutions or other financial institutions described in section 3.4 of the Temporary Framework. The Commission assesses the compatibility of the measure based on Article 107(3)(c) TFEU, in light of section 3.13 of the Temporary Framework.

(49) The Commission accordingly considers that the measure facilitates the development of certain economic activities (recital (18)) that are important for economic recovery, is appropriate and necessary to address the economic consequences arising from the crisis induced by the COVID-19 pandemic. In particular:

(a) The aid is granted on the basis of a scheme and the maximum individual aid amount that may be granted per undertaking does not exceed 1 % of the total budget of the scheme (recital (22), read in conjunction with recitals (12), (28) and (31)). The measure therefore complies with point 89(a) of the Temporary Framework.

(b) Eligible costs include only the costs of investments in tangible and intangible assets. Costs related to purchasing land may be included only in as far as they are part of an investment for production of goods or provision of services. Financial investments are not eligible (recital (23)). The measure therefore complies with point 89(b) of the Temporary Framework.

(c) The measure applies to the whole territory of Hungary (recital (19)). Furthermore, the sectoral scope of the measure is designed broadly since it applies to all sectors except to the few ones referred to in recital (18). Those sectoral exclusions are based on objective criteria (in particular compliance with the DNSH principle) and do not lead to an artificial limitation of eligible investments or potential beneficiaries that would result in targeting only a small number of undertakings (see also recital (16)). On the contrary, the range of eligible investments and beneficiaries is sufficiently wide (as noted in recital (16), Hungary estimates that up to 100 000 enterprises are in principle eligible under the measure). For these reasons, the measure complies with point 89(c) of the Temporary Framework.

(d) The aid intensities under the measure may not exceed the limits laid down in points 89(d) and 96, first and second sentences, of the Temporary Framework (recitals (27) and (30) for type-A loans and type-B loans respectively).

(e) The aid under type-A loans may not exceed EUR 10 million per undertaking in nominal terms or the maximum aid amount calculated in accordance with Article 14 of the GBER, with the exception of Article 14(14) of the GBER and based on the applicable regional aid map, increased by EUR 10 million in nominal terms (recital (28)). The measure therefore complies with point 89(e) (for type-A loans). The aid under type-B loans, as designed by Hungary, may not exceed EUR 15 million per undertaking in nominal terms or the maximum aid amount calculated in accordance with Article 14 of the GBER, with the exception of Article 14(14) of the GBER and based on the applicable regional aid map, increased by EUR 15 million in nominal terms (recital (31)). The Commission notes that point 96 of the Temporary Framework states that "*in derogation of point 89(e) the overall aid may not exceed EUR 15 million per undertaking in nominal terms*", without explicitly referring to the possibility offered by the second sentence of point 89(e) according to which the maximum aid amount may be increased in assisted regions by the amount resulting from the applicable regional aid map. However, the current wording of point 96 is unduly restrictive in light of the overarching objective of facilitating the development of certain economic areas when the instrument is exclusively in the form of loans or guarantees or similar repayable instruments. The Commission considers it appropriate to apply the first part of the first sentence of point 96 of the Temporary Framework in such a way as to preserve the regional top-up, i.e. the amount resulting from the applicable regional aid map, foreseen by the second sentence of point 89(e) of that framework. For that reason, the Commission considers that, for B-type loans in this case, it is appropriate to approve a maximum aid amount of EUR 15 million plus the aid resulting from the application of the Hungarian regional aid map. The Commission will apply the same criteria as in the present decision to any similar case.

(f) The aid is granted in the form of repayable instruments (loans), which are limited to a duration of 8 years (recitals (29) and (30)). The measure does not provide for a possibility to convert the loans into grants. The first condition laid down in point 89(f) of the Temporary Framework (second sentence) thus does not apply. The measure therefore complies with the second condition in point 89(f) of the Temporary Framework.

(g) Aid may not be granted under the measure to medium and large enterprises that were already in difficulty within the meaning of the GBER, the ABER or the FIBER, on 31 December 2019 (recital (17)). Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER, ABER or FIBER 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[25] or restructuring aid[26] (recital (17)). The measure therefore complies with point 92 of the Temporary Framework.

(h) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 31 December 2022 (recital (14)). In addition, aid will only concern investments made after approval of the measure by the Commission (recital (24)). The measure therefore complies with point 93 of the Temporary Framework.

(i) Aid may only be granted on the basis of a written application submitted before works on the investment start (recital (25)). The aid under the measure is therefore has an incentive effect pursuant to point 94 of the Temporary Framework.

(j) As stated in recital (32), the risk margins for type-B loans are determined in line with those approved by the Commission in cases SA.58067 (for loans up to 6 years) and SA.57252 (for loans with 7 or 8 years duration). The measure therefore complies with points 27(a), 27(b) of the Temporary Framework. Since the debt instruments at stake are not subordinated, the conditions mentioned in point 27bis, first and second sentences, are not applicable. The measure therefore complies with point 96 (third sentence) of the Temporary Framework.

(k) Hungary also confirmed that cumulation with other aid under section 3.13 of the Temporary Framework is excluded (recital (36)). The measure therefore complies with point 96 (fourth sentence) of the Temporary Framework.

(l) 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. In particular, the remuneration of the

25 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.

26 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.

financial intermediary (the difference between the maximum interest rate paid by the final beneficiary and the funding costs paid by the financial intermediaries to Eximbank) cannot exceed the difference between the average market interest rates (by segments) and the average interbank funding cost (which are both market prices); in addition, the fees applied by the financial institutions are limited in types and capped in amounts (recital (11)). The safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. As confirmed by Hungary, the loans will be repaid to Eximbank (footnote 4). The measure therefore complies with points 28 to 31 of the Temporary Framework, to which point 96 (fifth sentence) of the Temporary Framework refers.

(50) The Hungarian authorities confirm 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 (recital (4)).

(51) The Hungarian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recitals (37) and (38)).

(52) The Hungarian 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 and the cumulation rules of the relevant Regulations are respected (recitals (33) to (34)); they also confirm that the total aid amount cannot exceed 100 % of the eligible costs (recital (35)). The measure therefore complies with points 20 and 91 of the Temporary Framework.

(53) The measure will facilitate the development of certain economic activities of importance for a sustainable economic recovery because they accumulated an investment gap due to the crisis. The measure will have positive effects on the development of these activities as it will contribute to a reduction of the investment gap that could hamper long term economic growth. The measure will however strengthen the financial situation of certain undertakings (recital (18)) operating in sectors where there is cross border competition; it will thus have negative effects on competition and trade (recital (44)).

(54) In weighing the positive effects of the aid against its negative effects on competition and trade (point 90 of the Temporary Framework), the Commission has paid particular attention to the fact that the measure does not support activities in breach of the 'do no significant harm principle' principle. To this effect, industries and activities that are considered by the Hungarian authorities as potentially harmful to the environment are excluded from the scope of the scheme (recital (18)). Furthermore, as explained by the Hungarian authorities, it is obligatory to attach a questionnaire on 'environmental and social impact assessment' to all aid applications with supporting documents if necessary, and to monitor the fulfilment of DNSH principle during the annual monitoring (recital (21)). In addition, the measure was designed to meet the conditions laid down in section 3.13 of the Temporary Framework: as the measure is necessary, proportionate and appropriate, it is unlikely to have undue negatives effects on

competition and trade and such effects are limited to the minimum necessary. In particular, aid under section 3.13 can only finance investment costs relating to tangible and intangible assets, it benefits a broad range of beneficiaries, aid amounts are capped and maximum aid intensities are lower when the size of the undertaking increases. Furthermore, the measure is granted in the form of loans, which have lower distortive effects than cash grants.

(55) The Commission has taken due consideration that the measure facilitates the development of certain economic activities and of the positive effects of that measure on supporting the recovery from the health crisis provoked by the COVID-19 pandemic when balancing those effects against the potential negative effects of the measure on the internal market. The Commission considers that the positive effects of that measure outweigh its potential negative effects on competition and trade.

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

(56) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution ("BRRD")[27] in the event that an institution benefiting from the measure meets the conditions for the application of that Directive, the Commission notes that the measure does not appear to violate intrinsically linked provisions of the BRRD.

(57) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(c) 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.[28] 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 support private investment as a stimulus to overcome an investment gap accumulated in the economy due to the crisis. As a result, aid granted under the measure does not qualify as extraordinary public financial support under Article 2(1)(28) BRRD.

(58) Moreover, as indicated in recital (11), 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.

(59) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD.

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27 OJ L 173, 12.6.2014, p. 190.

28 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)(c) 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