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Subject: State Aid SA.102998 (2022/N) – Italy
COVID-19: Tax credit for IMU in the tourism sector

Excellency,

1. PROCEDURE

(1) By electronic notification of 16 May 2022, Italy notified aid in the form of limited amounts of aid and support for uncovered fixed costs ("*Credito d'imposta per Imposta Municipale Unica (IMU) in comparto turismo*", the "measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the "Temporary Framework").[1]

(2) On 7 June 2022, the Commission services requested further clarifications from the Italian authorities, which they provided on 13 June 2022.

(3) On 14 June 2022, the Italian authorities submitted further notification documents.

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

[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).

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

2. DESCRIPTION OF THE MEASURE

(5) Italy considers that the COVID-19 pandemic affects the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.

(6) The Italian authorities explain that, according to data recorded by ISTAT and Banca d'Italia[3], in 2020, the COVID-19 crisis and the related governmental counter measures caused a drastic drop in tourist flows in Italy. As regards inbound tourism, it was 54.6% less in 2020 when compared to 2019. As regards domestic tourism flows, the decrease in overnight stays in 2020 was 32.2% when compared to 2019. The Italian authorities also report that the accommodation sector has been severely affected: the number of foreign tourists decreased by 70% in 2020 compared to the previous year.

(7) Similarly, the related data for 2021 show a similarly negative trend for the tourism sector in Italy. The first quarter of the 2021 marked a decline of 81.7% in arrivals and 79.7% in overnight stays compared to the same quarter of 2019. In particular, foreign tourists were almost absent (-93.7% in overnight stays). The Italian authorities submit that, in the second quarter of 2021, the decrease in tourist flows continued (especially in April when the decrease was -85.4% compared to April 2019) following the restrictive measures introduced during the Easter period, while foreign tourists continued to be almost absent in April and May 2021 (-95.9% in April 2021 and -82.2% in May 2021 compared to the corresponding months of 2019). For the tourism accommodation sector, the third quarter of 2021 marked a decrease in overnight stays of -17.3% for hotels and -9.7% for other types of tourism accommodation compared to the same period of 2019. The situation in the fourth quarter of 2021 worsened due to the arrival of the “Omicron variant” of COVID-19 which led to new governmental restrictive measures and to a decline in tourism flows (-20.1% in overnight stays when compared to the same period in 2019). More generally, in 2021, tourism flows in Italy marked a decrease of 43.8% in arrivals and 35.8% in overnights compared to 2019.

(8) With the notified measure, Italy intends to contribute to the fixed costs of tourism accommodation undertakings by providing them with a tax credit in relation to the municipal real estate tax (the “*Imposta Municipale Unica*” or “*IMU*”) that these undertakings have to pay annually.

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

[3] https://www.istat.it/it/archivio/261066 and https://www.bancaditalia.it/statistiche/tematiche/rapporti-estero/turismo-internazionale/tavole/index.html

(9) The notified measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by tourism accommodation undertakings in Italy because of the pandemic, to ensure that the disruptions caused by the pandemic do not undermine their viability and thereby to preserve the continuity of economic activity in the sector after the pandemic.

(10) Italy 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.

(11) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2, 3.1 and 3.12 of the Temporary Framework.

2.1. The nature and form of aid

(12) The measure provides aid in the form of a tax credit contribution to the uncovered fixed costs of tourism undertakings for which the COVID-19 outbreak resulted in the suspension or reduction of their business activity during the eligible period, i.e. 1 April 2021 to 30 June 2021. The tax credit will be calculated as a fixed percentage (50%) of the amount paid as the second IMU instalment for 2021 by each beneficiary.

(13) More specifically, in order to benefit from the measure, the beneficiaries must have suffered a decrease in turnover or fees in the period 1 April 2021 to 30 June 2021 by at least 50% compared to the corresponding period of 2019.

2.2. Legal basis

(14) The legal basis for the measure is Article 22 ("Tax credit for IMU in the tourism sector")[4] of Decree-Law No 21 of 21 March 2022.[5][6]

2.3. Administration of the measure

(15) The Ministry of Tourism and the Italian Revenue Agency ("Agenzia delle Entrate") are, respectively, responsible for granting and administering the measure.

2.4. Budget and duration of the measure

(16) The estimated budget of the measure is EUR 15.6 million.

(17) The scheme covers the period between 1 April 2021 and 30 June 2021.

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4 "Credito d'imposta per IMU in comparto turismo".

5 DECRETO-LEGGE 21 marzo 2022, n. 21, "Misure urgenti per contrastare gli effetti economici e umanitari della crisi ucraina. (22G00032)".

6 Pursuant to Article 22(5) of Decree-Law No 21 of 21 March 2022: "The effectiveness of the provisions of this Article is subject, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union, to authorisation by the European Commission".

(18) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 30 June 2022. Italy confirms that the tax liability in relation to which the aid is granted have arisen no later than 30 June 2022, in line with footnote 24 of the Temporary Framework.

2.5. Beneficiaries

(19) The beneficiaries of the measure are tourism accommodation undertakings[7] of all sizes[8] active in Italy. The properties where the activity of those undertakings is carried out must fall within the cadastral category D/2, concerning hotels and pensions. Tourism accommodation undertakings are only eligible under the measure if their owners are also managers of the activity carried out in that property. The Italian authorities estimate that around 1 000 undertakings are eligible for aid under the measure.

(20) Financial institutions are excluded as eligible beneficiaries.

(21) 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")[9] 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[10] or restructuring aid.[11]

2.6. Sectoral and regional scope of the measure

(22) The measure is open to undertakings operating in the tourism accommodation sector in Italy falling under the cadastral category D/2. The measure and applies to the whole territory of Italy. The measure is not open to the financial sector.

2.7. Basic elements of the measure

(23) The measure intends to contribute to the beneficiaries' fixed costs related to the IMU tax and provides for a tax credit in favour of the beneficiaries, equal to 50% of the amount they paid as the second instalment of the IMU tax for the year 2021.

7 These tourism accommodation undertakings include undertakings that carry out agro-tourism activities, undertakings that manage open-air accommodation facilities, trade fair and conference undertakings, spa complexes and theme parks (including water and wildlife parks).

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 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.

10 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.

11 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.

(24) The beneficiaries must have suffered a decrease in turnover or revenues in the period 1 April 2021 to 30 June 2021 by at least 50% compared to the corresponding period of 2019.

(25) The IMU[12] is a municipal real estate tax in Italy, due for the possession of buildings and agricultural land. It is payable by the owner of the property or by the owner of any other right in rem on a property. The IMU is also payable by the concessionaires in case of concessions of State-owned property and by the lessee in case of leasing.

(26) The IMU is calculated by applying the tax rate set for each specific property to the taxable base, which is the value of the property as by law. [13] It is paid in two instalments: (a) the first instalment is due on June 16 of the reference year and the amount to be paid corresponds to the tax due for the first half of the year by applying the rate applied on the previous year; (b) the second instalment must be paid on balance by 16 December of the reference year.

(27) The Italian authorities confirm that, in order to obtain the tax credit under the measure, the beneficiaries must meet the requirements and comply with the conditions and limits established in sections 3.1 and 3.12 of the Temporary Framework.

(28) Eligible beneficiaries must submit a self-declaration to the Italian Revenue Agency, prior to the granting of aid under the measure, indicating the form and amount of the aid applied for as well as declare their turnover decline and net losses.

(29) The self-declaration serves to identify the entire amount of aid applied for. The beneficiary must bear in mind that several separate legal entities may be considered to form one economic unit for the purposes of the application of State aid rules, which is then considered to be the relevant undertaking for calculating the aid amount. The beneficiary must further confirm that the amount of aid applied for under the measure, together with other aid received under previously approved measures, does not exceed the ceilings provided for in sections 3.1 and 3.12 of the Temporary Framework. That information allows the Italian tax authorities to identify the amount of aid applied for, which can be granted in accordance with sections 3.1 and 3.12 of the Temporary Framework.

(30) In their self-declaration, beneficiaries will have to certify that they meet the requirements and comply with the conditions, limits, and ceilings provided for in sections 3.1 and/or 3.12 of the Temporary Framework.

(31) In case of aid granted under section 3.1 of the Temporary Framework, the Italian authorities confirm that the aid will not exceed the ceiling under section 3.1 at the time when the aid is granted.

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[12] The IMU was introduced by Article 13 of Legislative Decree No 201 of 6 December 2011 and by Law No 214 of 22 December 2011, as amended by Law No 160 of 27 December 2019.

[13] Usually, between 0.1% and 0.86%, depending upon the category of the property (but can be amended this standard rate can be amended by the municipality as provided by legislation, following a resolution of the Municipal Council).

(32) In case of aid granted under section 3.12 of the Temporary Framework, the Italian authorities confirm that eligible undertakings must respect the conditions set out in point 87 of the Temporary Framework. In particular:

(a) The aid will be granted on the basis of a scheme to undertakings that suffer a decline in turnover during the period from 1 April 2021 to 30 June 2021 of at least 50 % compared to the same period in 2019. In case the beneficiary's turnover decline relates only to parts of the eligible period, the undertaking must identify that period in the self-declaration;

(b) Uncovered fixed costs are defined under the measure in accordance with point 87(c) of the Temporary Framework, i.e. the fixed costs of an undertaking incurred during the eligible period which are not covered by the profit contribution (revenues minus variable costs) during the same period and which are not covered by other sources, such as insurance, temporary support measures covered by the Temporary Framework or support from other sources. Moreover, the Italian authorities confirm that the losses of undertakings from their profit and loss statements during the eligible period are considered to constitute uncovered fixed costs.

(c) The final amount of aid is determined after realisation of the losses on the basis of audited accounts, and if not available or on the basis of tax accounts. The beneficiary must confirm that the forecasted uncovered fixed costs exceed the amount of aid applied for.

(d) The Italian authorities commit to recover any payment exceeding the final amount of the aid.

(e) 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 General Block Exemption Regulation), where the aid intensity will not exceed 90% of the uncovered fixed costs.

(33) The Italian authorities also explain that they will further ensure verification of the amount of turnover decline immediately on the basis of tax accounts. In addition, the tax authorities will assess the relevant data on the basis of the existing data exchange with the tax payers on a regular basis.

(34) The Italian authorities confirm that the overall nominal value of the aid granted under section 3.1 of the Temporary Framework will not exceed EUR 2.3 million per undertaking, while the overall nominal value of the aid granted under section 3.12 of the Temporary Framework will not exceed EUR 12 million per undertaking. All figures used must be gross, that is, before any deduction of tax or other charges.

(35) The Italian authorities commit that if aid granted under the measure exceeds the total amount eligible under sections 3.1 and 3.12 of the Temporary framework cumulatively, it will be recovered, with recovery interest, if there is no voluntary recovery.

2.8. Cumulation

(36) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[14] or the General Block Exemption Regulation[15] provided the provisions and cumulation rules of those Regulations are respected.

(37) The Italian authorities 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.

(38) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, will be respected.

(39) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure 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.

(40) The Italian authorities confirm that aid granted under section 3.12 of the Temporary Framework will not be cumulated with other aid for the same eligible costs.

2.9. Monitoring and reporting

(41) The Italian 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 measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[16]).

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[14] 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) 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).

[15] 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.

[16] 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 tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(43) 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.

(44) The measure is imputable to the State, since it is granted by the Ministry of Tourism and administered by the Italian Revenue Agency (recital (15)) and it is based on Article 22 of Decree-Law No 21 of 21 March 2022 (recital (14)). It is financed through State resources, since it is financed by public funds.

(45) The measure confers an advantage on its beneficiaries in the form of tax advantages (recital (12)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(46) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular tourism accommodation undertakings active in Italy (recital (19)), excluding the financial sector.

(47) 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.

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

3.3. Compatibility

(49) 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.

(50) 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*".

(51) 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".

(52) The measure aims at facilitating the access of undertakings to external finance at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(53) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Limited amount of aid*" and "*Aid in the form of support for uncovered fixed costs*") described in sections 3.1 and 3.12 of the Temporary Framework.

3.3.1. Compatibility of the measure under Section 3.1 of the Temporary Framework

(54) The Commission considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular:

- The aid takes the form of tax advantages (see recital (12)).

  The overall nominal value of the tax advantages will not exceed EUR 2.3 million per undertaking (see recital (34)); all figures used must be gross, that is, before any deduction of tax or other charges. If the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, will be respected (recital (38)) The measure therefore complies with point 22(a) of the Temporary Framework.

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (12). The measure therefore complies with point 22(b) of the Temporary Framework.

- Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019 (recital (21)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty 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[17] or restructuring aid[18] (recital (21)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

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[17] 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.

[18] 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.

- Aid will be granted under the measure no later than 30 June 2022 (see recital (18)). The tax liability in relation to which that advantage is granted must have arisen no later than 30 June 2022. The measure therefore complies with point 22(d) of the Temporary Framework.

3.3.2. Compatibility of the measure under Section 3.12 of the Temporary Framework

(55) The Commission 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 the Temporary Framework. In particular:

- Aid is granted under the measure no later than 30 June 2022 and covers uncovered fixed costs incurred during the period between 1 April 2021 and 30 June 2021 (recital (13)). 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 or fees during the eligible period of at least 50% compared to the same period in 2019 (recital (13)). 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 (32)(e)). The losses of undertakings from their profit and loss statements during the eligible period[19] 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 on the basis of audited accounts or on the basis of tax accounts (recital (32)(c)). Any payment exceeding the final amount of the aid must be recovered (recital (35)). The measure therefore complies with point 87(c) of the Temporary Framework.

- The aid takes the form of tax advantages (recital (12)). The overall nominal value of will not exceed EUR 12 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (34)). The measure therefore complies with point 87(d) of the Temporary Framework.

- The aid under the measure will not be cumulated with other aid for the same eligible costs (recitals (36) to (40)). The measure therefore complies with point 87(e) of the Temporary Framework.

- Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019 (recital (21)). Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of

[19] One-off impairment losses are not included in the calculation of the losses.

granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[20] or restructuring aid[21] (recital (21)). The measure therefore complies with point 87(f) of the Temporary Framework.

(56) The Italian 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 (10)).

(57) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (41)). The Italian 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 (36) to (40)).

(58) 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 sections 2, 3.1 and 3.12 of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

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

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION

20 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.

21 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.