EUROPEAN COMMISSION

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Subject: **State Aid SA.103286 (2022/N) – Italy**
TCF: SACE Guarantee Scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 8 June 2022, amended on 4 July and completed on 7 July 2022, Italy notified aid in the form of liquidity support in the form of guarantees (SACE guarantee scheme, the "measure") under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the "Temporary Crisis Framework")[1].

(2) 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 on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 131 I, 24.3.2022, 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

(3) Italy considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken by Russia ("the current crisis") so far affects the real economy. The current crisis created significant economic uncertainties, disrupted trade flows and supply chains, leading to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods. Specifically, the effect on the prices of several energy (natural gas and oil) and food products (wheat and corn) traded in the international financial markets has been immediate and meaningful, given the relevance of Russia and Ukraine as main global exporters. The impact on European countries has been more intense than on other advanced economies like the United States, as the EU imports over 40% of its gas needs from Russia; in particular, Italy is the European country with the highest percentage of dependence on gas in its energy mix (42.5%). In terms of trade, Russia is Italy's 7th supplier country with a concentration on the mining sector (that sector represents over 75% of total imports from Russia; the overall imports from Russia amounted to EUR 17.6 billion in 2021). Russia is also the 14th country of destination for Italian goods, with goods worth EUR 7.7 billion exported in 2021, mainly in the following sectors: mechanical engineering (29.8% of the total goods exported by Italy to Russia), textiles and wearing apparel (15.6 %) and chemicals (10.1%). From January through April 2022, the Italian exports of goods to Russia decreased by 19.3% year over year (-48.4% in April 2022 vs April 2021), as a direct effect of the conflict and the sanctions imposed by the European Union.

(4) Overall, the growth prospects for the Italian economy have been revised downwards by several international and national professional forecasters, with respect to the projections made before the onset of the conflict[3] In this context, the price pressure has intensified significantly and the Italian inflation is expected to reach 6.2%, on average, in 2022 (1.9% in 2021). The return of high inflation has contributed to the worsening of business confidence. Firms have signaled supply difficulties and higher production input prices, which are affecting their operating margins and also their liquidity position due to higher working capital needs. The upstream sectors of the production chain, especially metallurgy, are directly exposed to the price increases in raw materials but have greater chances of pass-through. On the other hand, companies in the further downstream stages, such as metal and mechanical products, will find it harder shifting these price

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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] Before the onset of the conflict, Italy's GDP was expected to grow by more than 4% in 2022. Based on the current baseline scenario, which assumes that the Russian aggression against Ukraine is limited in space and time and future COVID-19 waves will have decreasing economic effects, Italy's GDP will grow by 3.2% in 2022, according to the World Economic Prospects Monthly published by Oxford Economics on 8 June 2022. This estimate is relatively more optimistic than other forecasts (e.g. the recent OECD economic outlook), but is in line with that by the Bank of Italy, which recently has predicted 3.0%, thanks to the better outcome observed in the first quarter.

increases to the end customers. In comparison with its European peer countries, the share of energy costs over total production costs is higher in Italy, negatively affecting Italy's competitiveness. Thus, the measure aims to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far by Russia.

(5) 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.

(6) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 1 and 2.2 of the Temporary Crisis Framework.

2.1. The nature and form of aid

(7) The measure provides aid in the form of guarantees on loans.

2.2. Legal basis

(8) The legal basis for the measure is article 15 of the Decree-Law No. 50 of 17 May 2022. Where needed to ensure compliance to the Commission Decision, the national legal basis will be amended.

2.3. Administration of the measure

(9) The publicly owned *Servizi Assicurativi del Commercio Estero* S.p.A. ("SACE") is responsible for administering the measure. The Italian Ministry of Finance provides counter-guarantees on SACE's obligations taken under the measure and may provide instructions to SACE in the administration of the measure.

2.4. Budget and duration of the measure

(10) The estimated budget of the measure is the remaining portion of the EUR 200 billion budget that Italy had initially allocated under the Italian scheme originally approved in case SA.56963 (2020/N)[4], as amended in case SA.59681 (2020/N)[5]. The Italian authorities estimate that no more than EUR 10 billion in nominal amounts will be guaranteed under the measure.

(11) 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.

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[4] Commission decision of 13 April 2020 C(2020) 2371 final – Italy - Guarantee scheme under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak.

[5] Commission decision of 23 December 2020 C(2020) 9634 final – Italy - COVID-19: Prolongation and amendment of SA.56963, SA.57289 and SA.57937.

2.5. Beneficiaries

(12) The final beneficiaries of the measure are SMEs and large enterprises[6], undertakings registered in Italy. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.

(13) Aid is granted under the measure through credit institutions and other financial institutions as financial intermediaries.

(14) Italy confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.

(15) Italy confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations[7]. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

2.6. Sectoral and regional scope of the measure

(16) The measure is open to all sectors except the financial sector. It applies to the whole territory of Italy.

2.7. Basic elements of the measure

(17) The Italian authorities state that the measure will provide liquidity support in the form of guarantees on loans granted in line with all the conditions under section 2.2 of the Temporary Crisis Framework. More specifically:

(a) Loans covered by the guarantee will be granted to support personnel costs, investments or working capital employed in production plants and business activities that are located in Italy. The term “loan” is deemed to include also recourse factoring[8] products and financial leases;

(b) Loans covered by the guarantee have a duration of no more than six years, with the possibility for companies to take advantage of a pre-amortization

[6] 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).

[7] For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

[8] Recourse factoring is a product in which the factoree (the seller of a good or service) receives immediate payment of an invoice from the factor (at a small discount) who will then in turn be paid by the purchaser at the payment date indicated in the invoice. In case of non-payment, the factor has the right of recourse to the factoree.

(i.e. a grace period on repayment of the principal of the loan) lasting up to thirty six months. The Italian authorities confirm that the interest on the principal keeps accruing during this grace period. At any time, the duration of the loan can be extended up to eight years. The duration of the guarantee matches the duration of the loan;

(c) Guarantees will be granted under the measure by 31 December 2022 at the latest;

(d) As regards the maximum amount of the loan per beneficiary:

– the caps provided in point 47(e)(i) and point 47(e)(ii) of the Temporary Crisis Framework will apply. In this respect, in order not to exclude newly established undertakings, the Italian authorities indicate that, as regards the cap referred to in point 47(e)(i) of the Temporary Crisis Framework, in case of undertakings incorporated after 31 December 2019, reference shall be made only to the accounting periods actually closed as of the date of the application for the guaranteed transaction;
– the Italian authorities confirm that the cap provided in point 47(e)(iii) of the Temporary Crisis Framework will not be used;

(e) The guarantee will not exceed (i) 90% of the loan principal for companies with less than 5000 employees in Italy and turnover up to EUR 1.5 billion; (ii) 80% of the loan principal for companies with a turnover of between EUR 1.5 billion and EUR 5 billion or with more than 5000 employees in Italy; and (iii) 70% for companies with a turnover of over EUR 5 billion;

(f) Losses under the guarantee will be sustained proportionally and under the same conditions by the credit institution and the State;

(g) When the size of the loan decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount will decrease proportionally;

(h) The Italian authorities commit to enforce the following levels of guarantee premiums, which will be set per individual loan at a minimum level and will increase progressively as the duration of the guaranteed loan increases, as set out in the following tables:

– Guarantee premiums for six years loans:

Types of beneficiary	**For 1st year**	**For 2nd -3rd year**	**For 4th -6th year**
SMEs	**25 bps**	**50 bps**	**100 bps**
Large Enterprises	**50 bps**	**100 bps**	**200 bps**

– Guarantee premiums for eight years loans:

Types of beneficiary	For 1st year	For 2nd -3rd year	For 4th -6th year	For 7th-8th year
SMEs	**75 bps**	**100 bps**	**150 bps**	**250 bps**
Large Enterprises	**100 bps**	**150 bps**	**250 bps**	**350 bps**

(i) In case of extension over six years of guaranteed loans up to eight years (as provided in recital (17)(b)), undertakings shall retroactively pay, within ten days following the end of the calendar quarter during which the extension of the guarantee is granted, any difference between the guarantee premiums determined for eight years loans and those determined for six years loans;

(j) The Italian authorities confirm that the mobilisation of the guarantees is linked to specific contractual conditions, which have to be agreed between parties when the guarantee is initially granted. The guarantee can be activated on first demand in case of non-payment of all or part of the loan by the borrower. Following the receipt of a payment demand stating the occurrence of a non-payment event, SACE shall pay the amount due under the guarantee within the later of: (a) 30 days from the receipt of the payment demand and (b) 90 days from the non-payment event;

(k) The Italian authorities commit that the credit institutions or other financial institutions commit to apply interest rates (i.e. cost of financing) that are lower than the interest rate that they would have applied in the absence of the guarantee. Furthermore, the terms and conditions agreed between the parties will require financial intermediaries to charge commissions related to the guaranteed loans that do not exceed the envisaged costs.

(18) In order to demonstrate that the liquidity needs addressed by the measure are due to the current crisis, eligible undertakings are required to demonstrate[9] that the current crisis has direct negative economic repercussions on their business activity, in terms of contraction of production or demand, due to (i) disturbances in the supply chains of production factors, in particular raw materials and semi-finished products; (ii) increases in the prices of raw materials and semi-finished products; or (iii) the cancellation of contracts with counterparts based in Russia, Belarus and Ukraine. Alternatively, the eligible undertakings are required to demonstrate that their economic activity is reduced or interrupted as a direct effect of the energy cost increase induced by the current crisis and that the liquidity shortage is strictly related to these difficulties. For this purpose, as a condition of access to the measure, the terms and conditions agreed between the parties will require financial intermediaries to collect such representations from eligible undertakings pursuant to the Italian Presidential Decree 28 December 2000 No. 445, which associates administrative and/or criminal liabilities to any misrepresentations.

[9] See legal basis, recital (1).

(19) With the aim of assuring that guarantees are issued only to undertakings whose liquidity needs are due to the current crisis, the Italian authorities decided to exclude undertakings that were already in difficulty[10] on 31 January 2022, except[11] in case they had entered, before the grant of the guaranteed loan, either (i) an agreement among creditors enabling the continuity of the business[12]; (ii) a debt restructuring agreement[13]; or (iii) a recovery plan[14] under certain conditions[15].

2.8. Cumulation

(20) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under the *de minimis* Regulations[16] or the General Block Exemption Regulation ("GBER"), 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 ("ABER")[17] and 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 ("FIBER")[18], provided the provisions and cumulation rules of those Regulations are respected.

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[10] Within the meaning of the General Block Exemption Regulation ("GBER"), the Agricultural Block Exemption Regulation ("ABER") and the Fisheries Block Exemption Regulation ("FIBER").

[11] Pursuant to footnote 30 of the Temporary Crisis Framework.

[12] *Concordato preventivo con continuità aziendale* pursuant to article 186-bis of the Italian Bankruptcy Law (Italian Royal Decree No. 267 of 16 March 1942 as subsequently amended and supplemented).

[13] *Accordo di ristrutturazione dei debiti* pursuant to article 182-bis of the Italian Bankruptcy Law.

[14] *Piano di risanamento* pursuant to article 67 of Italian Bankruptcy Law.

[15] These conditions being: (a) their exposures are not in a situation that would lead to their classification as non-performing ("*esposizioni deteriorate*"); (b) there is no outstanding past-due amount; and (c) the guaranteeing entity, on the basis of the analysis of the undertaking's financial situation, is satisfied about the likelihood of the full and timely repayment of the exposure, pursuant to article 47a, paragraph 6, letters a) and c), of the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013.

[16] 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).

[17] OJ L 193, 1.7.2014, p. 1.

[18] OJ L 369, 24.12.2014, p. 37.

(21) The Italian authorities confirm that aid under the measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

(22) The Italian authorities confirm that aid under the measure may be cumulated with aid under measure SA.56963 (2020/N)[19], as amended in case SA.59681 (2020/N)[20]. Those measures were approved by the Commission under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak[21] (COVID-19 Temporary Framework) and the aid under the notified measure may be cumulated with those measures provided the respective cumulation rules are respected.

(23) 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 Crisis Framework provided the provisions in those specific sections are respected.

(24) The Italian authorities confirm that for the same underlying loan principal aid granted under section 2.2 of the Temporary Crisis Framework will not be cumulated with aid granted under section 2.3 of that framework and vice versa or with aid granted under sections 3.2 or 3.3 of the COVID-19 Temporary Framework. For different loans, aid granted under section 2.2 may be cumulated with aid granted under section 2.3 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 47(e) of the Temporary Crisis Framework.

(25) A beneficiary may benefit in parallel from multiple schemes under section 2.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 47(e) of the Temporary Crisis Framework.

2.9. Monitoring and reporting

(26) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and 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[22]).

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19 OJ C 144, 30.04.2020, p. 31

20 OJ C 17, 15.01.2021, p. 16

21 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).

22 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 repayable advances, guarantees, loans, subordinated debt and other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary.

3. ASSESSMENT

3.1. Lawfulness of the measure

(27) 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

(28) 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.

(29) The measure is imputable to the State, since it is administered by SACE and it is based on article 15 of the Decree-Law No.50 of 17 May 2022 (recitals (8) and (9)). It is financed through State resources, since it is financed by public funds (recital (10)).

(30) The measure confers an advantage on its beneficiaries in the form of guarantees on loans not in line with market conditions (recital (17)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, excluding the financial sector (recital (16)).

(32) 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.

(33) 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

(34) 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.

(35) 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*".

(36) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed the EU or its international partners and the counter measures taken, for example by Russia have created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods,

including in the agri-food sector. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Italy. 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 if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian military aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as the economic counter measures taken so far, for example by Russia.

(37) The measure aims at facilitating the access of undertakings to external finance at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of Italy.

(38) 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. The importance of the measure to stimulate lending by private banks to enterprises during the current crisis is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Italian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of liquidity support in the form of guarantees*") described in section 2.2 of the Temporary Crisis Framework and the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in point 47(h) of the Temporary Crisis 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 relevant conditions of the Temporary Crisis Framework. In particular:

- Guarantees may be granted on new individual loans, recourse factoring products and financial leases made to undertakings (recitals (12), (17)(a) and (17)(k)). The measure therefore complies with point 47(a) of the Temporary Crisis Framework.

- The measure sets minimum levels for guarantee premiums of 25, 50 and 100 bps for SMEs and 50, 100 and 200 bps for large enterprises for respectively the first year, second to third years, and fourth to sixth years on loans with a maturity of six years, in line with point 47(b) of the Temporary Crisis Framework. The Commission notes that point 47(f) of the Temporary Crisis Framework gives the possibility to Member States to modulate the guarantee duration according to point 47(c). The Commission also notes that guarantees may be granted for a duration up to eight years, and that the premiums linked to these durations are higher than the minimums defined above for durations up to six years (recital (17)(h)). The Commission regards such modulation as appropriate and in line with the Commission practice on modulation. It therefore complies with the guidance provided in point 47(b) and (c) of the Temporary Crisis Framework.

– Guarantees may be granted under the measure by 31 December 2022 at the latest (recital (17)(c)). The measure therefore complies with point 47(d) of the Temporary Crisis Framework.

– The measure limits the duration of the guarantees to a maximum of six years, with the possibility to modulate the duration up top eight years (recital (17)(b)). Those guarantees cover at most 90% of the loan principal and losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State (recitals (17)(e) and (17)(f)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (17)(g)). The measure therefore complies with point 47(f) of the Temporary Crisis Framework.

– The maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 47(e) of the Temporary Crisis Framework (recital (17)(d)). The Commission notes that while point 47(e)(i) requires that the maximum loan amount is determined on the basis of the average total annual turnover over the last three closed accounting periods, Italy will refer to the accounting periods actually closed as of the date of the application for the guaranteed transaction for undertakings that do not yet have three closed annual accounts. The Commission considers that it would not be appropriate to exclude such undertakings from the circle of eligible beneficiaries or to treat them differently than undertakings that have three closed annual accounts. The Italian authorities confirm that the same beneficiary cannot cover with guarantees under the notified aid measure the liquidity needs already covered by aid measures approved by the Commission under the COVID-19 Temporary Framework (recital (24)). The measure therefore complies with point 47(e) of the Temporary Crisis Framework.

– Guarantees granted under the measure relate to investment and working capital loans, including recourse factoring products and financial leases (recital (17)(a)). The Commission notes that Italy includes financial leases and recourse factoring products as eligible underlying instrument in the scheme. Recourse factoring products have the immediate effect of providing liquidity in return for a repayment obligation of the factoree. The factoring contract specifies further elements, including a discount on the amount of liquidity provided, which is equivalent to an interest payment, and the payment period on the invoice, which is equivalent to a loan maturity. In essence, those products entail the provision of credit by the factor to the factoree in return for an interest based fee. The factor has the right of recourse to the direct contracting partner (the factoree) and the associated claims are not classified as subordinated debt. The Commission considers thus such financial instruments as being economically similar to loans, and, therefore, eligible underlying instrument under section 2.2 of the Temporary Crisis Framework. The measure therefore complies with point 47(g) of the Temporary Crisis 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 credit institutions or other financial institutions commit to apply interest rates (i.e. cost of financing) that are lower than the interest rates that they would have applied in the absence of the guarantee. More specifically, the Commission takes into account the fact that all financial intermediaries authorised to operate in Italy have, in principle, access to the guarantee scheme (recital (13)), creating competition between them. As the undertakings are free to compare the offers from different financial institutions and select the most advantageous one, the Commission considers that the competition should in principle allow the undertakings to benefit in full from the guarantee. Furthermore, the terms and conditions agreed between the parties require financial intermediaries to charge commission related to the guaranteed loans that do not exceed the envisaged costs. The safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (17)(k)). The measure therefore complies with point 47(h) of the Temporary Crisis Framework.

- The cumulation rules set out in point 46 of the Temporary Crisis Framework are respected (recitals (20) to (25)).

- The mobilisation of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (recital (17)(i)).

(40) The Italian authorities confirm that, pursuant to point 32 of the Temporary Crisis Framework, 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 (5)).

(41) The Italian authorities confirm that, pursuant to point 33 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recital (14)).

(42) The Italian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (26)). 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 Crisis Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (20) to (25)).

(43) 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 Crisis 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