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Subject: State Aid SA.103706 (2022/N) – Lithuania
TCF: Guarantees and loans to support economic entities

Excellency,

1. PROCEDURE

(1) By electronic notification of 12 July 2022, amended on 20 July, 28 July and 4 August 2022, Lithuania notified liquidity support in the form of guarantees and subsidised loans (Individual guarantees and loans to support economic entities following the aggression against Ukraine by Russia, 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) Lithuania 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 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), as amended by Commission Communication C(2022) 5342 (OJ C 280, 21.7.2022, 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) Lithuania considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken for example by Russia ('the current crisis') so far affects the real economy. The current crisis 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. Lithuania's agriculture, forestry and fisheries account for about 3% of the country's gross domestic product. The imposition of sanctions on Russia and Belarus has declined the exports from Lithuania to these countries. Imports into Lithuania of raw materials originating in Ukraine has been disrupted, which led to the search of alternative suppliers and resulted in increased prices of raw material. According to official statistics, in March 2022, feed prices in the poultry sector increased by around 20% compared to prices of the first three weeks of February 2022. In the pig sector, feed raw materials (barley, wheat, triticale, soya, rape, peas, as well as oilseeds, vitamins, minerals, amino acids) increased by about 25%. The fishing and aquaculture sector also face the negative consequences of the Russian aggression against Ukraine. Fish feed prices have significantly increased (by 23% in May 2022 compared to February 2022) and continue to rise. Due to increased fuel prices (by 42% in May 2022 compared to February 2022), part of the Lithuanian fleet stopped fishing as the profitability of this activity decreased. Lithuania's inflation rate was almost 19% in May 2022, the higher inflation affects food consumption and production cost, leading to a slower flow of working capital to farms. 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 for example by Russia.

(4) Lithuania 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)(b) TFEU, in light of sections 1, 2.2 and 2.3 of the Temporary Crisis Framework.

2.1. The nature and form of aid

(6) The measure provides aid in the form of guarantees on loans and in the form of subsidised loans.

2.2. Legal basis

(7) The legal basis for the measure is: (i) the draft order of the Minister of Agriculture on the approval of the scheme of the financial incentive measure: "Loans to ensure the liquidity of economic entities active in field of production,

processing and marketing of agricultural and fishery products following the aggression against Ukraine by Russian Federation", (ii) the draft amendment of the resolution of the Government of 22 August 1997, No. 912 "On the Agricultural Credit Guarantee Fund" and (iii) the draft amendment of the order of Minister of Agriculture of 14 November 2019, No. 3D-624 “On the Approval of the Implementing Act on Individual Guarantees issued by the Agricultural Credit Guarantee Fund”.

(8) Implementation of the aid measure will only start after obtaining a positive decision of the Commission on the scheme. The Commission’s approval decision is mentioned as the legal basis in the draft order of the Minister of Agriculture on the approval of the scheme of the financial incentive measure and in the draft amendment of the Approval of the Implementing Act on Individual Guarantees issued by the Agricultural Credit Guarantee Fund.

2.3. Administration of the measure

(9) The Ministry of Agriculture is responsible for granting the aid and the Agricultural Credit Guarantee Fund will manage the measure.

(10) The Agricultural Credit Guarantee Fund (the “Fund”) is a 100% state-owned National Promotional Institution, its shares are managed by the Ministry of Finance. The purpose of the Fund is to support the agriculture, forestry, fisheries and aquaculture sectors via the provision of guarantees and the implementation of financial instruments.

2.4. Budget and duration of the measure

(11) The estimated budget of the measure is EUR 61 million, of which EUR 30 million for guarantees and EUR 31 million for loans. That budget is financed from public funds.

(12) 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.

2.5. Beneficiaries

(13) The final beneficiaries of the measure are small and medium-sized enterprises (‘SMEs’)[3] and large undertakings active in the agriculture, food, forestry, rural development, fishery and aquaculture sectors. Credit institutions or other financial institutions are excluded as eligible final beneficiaries.

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

(15) Lithuania 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,

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[3] 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).

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.

(16) Lithuania 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[4]. 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

(17) The measure is only open to: the agriculture, food, forestry, rural development, fishery and aquaculture sectors. It applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

(18) According to the Lithuanian authorities, the measure will provide liquidity support in the form of guarantees on loans and in the form of subsidised loans. The guarantees on loans are granted in line with all the conditions under section 2.2 of the Temporary Crisis Framework. More specifically:

(a) the guarantees will be provided on new individual investment (including financial leasing for the purchase of production equipment and/or facilities) and working capital loans to undertakings active in Lithuania;

(b) the maximum maturity of the loans is six years;

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

(d) the maximum amount of the loan or, in case of financial leasing, the maximum price or part of the price set in the financial leasing contract per beneficiary will be (i) 15% of the beneficiary's average total annual turnover over the last three closed accounting periods or (ii) 50% of energy costs over the 12 months preceding the month when the application for aid is submitted, i.e. the caps provided in point 47(e)(i) and point 47(e)(ii) of the Temporary Crisis Framework. When the beneficiaries of the measure are newly established enterprises that do not hold three closed annual accounts, the applicable cap provided by point 47(e)(i) will be calculated based on the undertaking's duration of existence at the moment of the aid application by the undertaking. When the beneficiaries of the measure are newly established enterprises that do not have records for the entirety of the preceding twelve months, the applicable cap provided by point 47(e)(ii) will be calculated based on the undertaking's duration of existence at the moment of the aid application by the undertaking. In any

4 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).

case, the maximum amount of the loan or, in case of financial leasing, the price or part of the price set in the financial leasing contract per beneficiary will not exceed EUR 5 million;

(e) the guarantee will have a maximum duration of six years and will not exceed 90% of the loan principal or, in case of financial leasing, of the price or part of the price set in the financial leasing contract where losses are sustained proportionally and under same conditions by credit institutions and the Fund, and it will not exceed 35% of the loan principal or, in case of financial leasing, of the price or part of the price set in the financial leasing contract where losses are first attributed to the Fund and then to the credit institutions. The guaranteed amount will decrease when the size of the loan/financial leasing decreases;

(f) the guarantee premium will be as follows for guarantees where (i) losses are sustained proportionally and under the same conditions by the credit institution and the Fund, and the guarantee coverage is in the range of 81% to 90% of the loan principal (or, in case of financial leasing, of the price or part of the price set in the financial leasing contract), and for guarantees where (ii) losses are first attributed to the Fund and only then to the credit institutions (first-loss guarantees), and the guarantee coverage is maximum 35% of the loan principal (or, in case of financial leasing, of the price or part of the price set in the financial leasing contract):

Type of recipient	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

For guarantees where losses are sustained proportionally and under the same conditions by the credit institution and the Fund, and where the guarantee coverage is maximum 80% of the loan principal (or, in case of financial leasing, the price or part of the price set in the financial leasing contract), the guarantee premium will be modulated as follows:

Guarantee coverage	Type of recipient	For 1st year	For 2nd-3rd year	For 4th-6th year
80%	SMEs	15 bps	30 bps	80 bps
	Large enterprises	30 bps	80 bps	175 bps
75%	SMEs	15 bps	25 bps	70 bps
	Large enterprises	25 bps	70 bps	170 bps
70%	SMEs	15 bps	15 bps	50 bps
	Large enterprises	15 bps	50 bps	150 bps
60%	SMEs	15 bps	15 bps	35 bps
	Large enterprises	15 bps	35 bps	135 bps
50%	SMEs	15 bps	15 bps	25 bps
	Large enterprises	15 bps	25 bps	125 bps

(g) the mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the financial intermediaries and the Fund when the guarantee is initially granted;

(h) to ensure that financial intermediaries will pass on the aid to the fullest extent possible to the final beneficiaries, the financial intermediary will not receive a management fee. The measure will be open to all financial institutions, enabling competition between them which will drive down interest rates, ensuring that the aid is passed on to borrowers as much as possible.

(19) The subsidised loans are granted in line with all the conditions under section 2.3 of the Temporary Crisis Framework. More specifically:

(a) the loans will be provided to cover working capital needs;

(b) the maximum maturity of the loans is six years, the loan may have a repayment deferment period of up to one year from the date of signing the loan agreement but not exceeding the maximum maturity of the loan, the interest is accrued from the first day of the repayment deferment period and is capitalised at least annually;

(c) the loans contracts will be signed under the measure by 31 December 2022 at the latest and under this measure a beneficiary can only be granted one subsidised loan;

(d) the maximum amount of the loan principal per beneficiary will be (i) 15% of the beneficiary's average total annual turnover over the last three closed accounting periods or (ii) 50% of energy costs over the 12 months preceding the month when the application for aid is submitted, i.e. the caps provided in point 50(e)(i) and point 50(e)(ii) of the Temporary Crisis Framework. When the beneficiaries of the measure are newly established enterprises that do not hold three closed annual accounts, the applicable cap provided by point 50(e)(i) will be calculated based on the undertaking's duration of existence at the moment of the aid application by the undertaking. When the beneficiaries of the measure are newly established enterprises that do not have records for the entirety of the preceding twelve months, the applicable cap provided by point 50(e)(ii) will be calculated based on the undertaking's duration of existence at the moment of the aid application by the undertaking. In any case, the maximum amount of the loan per beneficiary will not exceed EUR 500 000;

(e) the applied interest rate of the loan will be equal to the base rate determined in accordance with the Communication from the Commission, available on 1 February 2022 (i.e. -49 bps), increased by the credit risk margins as set out in the table below. However, the minimum all-in interest rate of the loan must be equal at least to 10 basis points per year.

Type of recipient	**Credit risk margin for 1st year**	**Credit risk margin for 2nd –3rd year**	**Credit risk margin for 4th -6th year**
SMEs	25 bps	50 bps	100 bps

Large enterprises	50 bps	100 bps	200 bps

(f) the measure is open to all financial intermediaries and to ensure that financial intermediaries, which grant the loans to the final beneficiaries, will pass on the aid to the fullest extent possible to the final beneficiaries, the financial intermediary will not receive a management fee and the administration fee may not exceed 2% of the loan amount (however, the minimum administration fee is EUR 150 the maximum administration fee is EUR 2500). The received reduced interest rate, as specified in the measure, will be repaid to the Fund and will not remain with the financial intermediary.

2.8. Cumulation

(20) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations[5] or the General Block Exemption Regulation, the Agriculture Block Exemption Regulation and the Fisheries Block Exemption Regulation[6] provided the provisions and cumulation rules of those Regulations are respected.

(21) The Lithuanian 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 Lithuanian authorities confirm that aid under the measure may be cumulated with aid under the COVID-19 Temporary Framework.[7] Those measures were

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[5] 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).

[6] Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187 of 26.6.2014, p. 1), Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1) 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 (OJ L 369, 24.12.2014, p. 37).

[7] These measures are:

- Sub-measure 2: "Guarantees on loans" of measure SA.57529 (2020/N) "Individual guarantees and interest and guarantee premium compensation during the COVID-19 outbreak to undertakings active in the agriculture, food, forestry, rural development and fisheries sectors", which the Commission approved by Decision C(2020) 4128 final of 16 June 2020; amended/prolonged in case SA.60073 (2020/N), approved by Commission decision C(2020) 9406 final of 17 December 2020; in case SA.63535 (2021/N), approved by Commission decision C(2021) 4928 final of 29 approved by the Commission under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak[8] ("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 Lithuanian 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 Lithuanian 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 and vice versa provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 47(e) and point 50(e) of the Temporary Crisis Framework.

(25) A beneficiary may benefit in parallel from multiple measures 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.

(26) A beneficiary may benefit in parallel from multiple measures under section 2.3 of the Temporary Crisis Framework provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 50(e) of the Temporary Crisis Framework.

2.9. Monitoring and reporting

(27) The Lithuanian 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

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June 2021 and in case SA.101074 (2021/N), approved by Commission decision C(2021) 9928 final of 22 December 2021, and

- Sub-measure L: "loans to ensure the liquidity of economic entities, acting in field of production processing and marketing of agricultural and aquacultural products, provides for aid in the form of loans granted at reduced interest rates" of measure SA.57823 (2020/N) "COVID-19: Temporary State aid to economic entities active in agriculture and aquaculture facing economic difficulties during the outbreak of Covid-19" which the Commission approved by decision C(2020) 4941 final of 14 July 2020; amended/prolonged in case SA.58903 (2020/N), which the Commission approved by decision C(2020) 7174 final of 14 October 2020; in case SA.60073 (2020/N) and in case SA.60266 (2020/N), which the Commission both approved by decision C(2020) 9406 final of 17 December 2020; in case SA.63099 (2021/N), which the Commission approved by decision C(2021) 3966 final of 28 May 2021 and amended/reintroduced in case SA.101868 (2022/N), which the Commission approved by decision C(2022) 1686 final of 15 March 2022.

[8] 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).

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[9]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(28) By notifying the measure before putting it into effect, the Lithuanian authorities have respected their obligations under Article 108(3) TFEU (recital (7)).

3.2. Existence of State aid

(29) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(30) The measure is imputable to the State, since it is administered by the Fund and it is based on the draft order of the Minister of Agriculture on the approval of the scheme of the financial incentive measure: "Loans to ensure the liquidity of economic entities active in field of production, processing and marketing of agricultural and fishery products following the aggression against Ukraine by Russian Federation" (recital (7)). It is financed through State resources, since it is financed by public funds (recital (11)).

(31) The measure confers an advantage on its beneficiaries in the form of guarantees on loans and subsidised loans not in line with market conditions (recital (6)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings active in the agriculture, food, forestry, rural development, fishery and aquaculture sectors, excluding the financial sector (recitals (13) and (17)).

(33) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

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

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[9] 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 guarantees the nominal value of the underlying instrument shall be inserted per beneficiary.

3.3. Compatibility

(35) 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.

(36) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(37) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed by 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 Lithuania (recital (3)). 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.

(38) The measure aims at facilitating the access of undertakings in the agriculture, food, forestry, rural development, fishery and aquaculture sectors 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 Lithuania.

(39) The measure is one of a series of measures conceived at national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending by private banks to undertakings active in the agriculture, food, forestry, rural development, fishery and aquaculture sectors, and to compensate for the severe increase in energy prices is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects in these sectors across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of a specific categories of aid ("*Aid in the form of guarantees*" and *"Aid in the form of subsidised loans"*) described in section 2.2 and section 2.3 of the Temporary Crisis Framework and the requirements for aid in the form of guarantees channelled through credit institutions or other financial institutions described in point 47(h) and point 50(g) of the Temporary Crisis Framework.

(40) The Commission accordingly considers that the notified liquidity support in the form of guarantees is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Lithuania and meets all the relevant conditions of the Temporary Crisis Framework. In particular:

- Guarantees may be granted on new individual loans, including financial leasing, made to undertakings (recital (18)(a)). The measure therefore complies with point 47(a) of the Temporary Crisis Framework.

- The guarantee premiums for guarantees (i) where losses are sustained proportionally and under the same conditions by the credit institution and the Fund with a guarantee coverage in the range of 81% to 90% of the loan principal (or, in case of financial leasing, of the price or part of the price set in the financial leasing contract) and (ii) for first-loss guarantees with a guarantee coverage of maximum 35% of the loan principal (or, in case of financial leasing, the price or part of the price set in the financial leasing contract) comply with the guidance provided in point 47(b) of the Temporary Crisis Framework (recital (18)(f)).

- The guarantee premiums for guarantees where losses are sustained proportionally and under the same conditions by the credit institution and the Fund with a guarantee coverage of maximum 80% of the loan principal (or, in case of financial leasing, of the price or part of the price set in the financial leasing contract) will be modulated according to the "Summary of case practice on modulation under point 47(c) of the Temporary Crisis Framework"[10]. These guarantee premiums therefore comply with the guidance provided in point 47(c) of the Temporary Crisis Framework (recital (18)(f)).

- Guarantees may be granted under the measure by 31 December 2022 at the latest (recital (18)(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 (recital (18)(e)). Those guarantees cover maximum 90% of the loan principal (or, in case of financial leasing, of the price or part of the price set in the financial leasing contract) and losses stemming from the loans/financial leasing are sustained proportionally and under the same conditions by the credit institutions and the Fund, or 35% of the loan principal (or, in case of financial leasing, of the price or part of the price set in the financial leasing contract) where losses are first attributed to the Fund and only then to the credit institutions (i.e. a first-loss guarantee) (recital (18)(e)). Furthermore, when the size of the loan/financial leasing decreases over time, the guaranteed amount decreases proportionally (recital (18)(e)). 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)(i) and point 47(e)(ii) of the Temporary Crisis Framework (recital (18)(d)).

- Guarantees granted under the measure relate to investment loans (including financial leasing) and working capital loans (recital (18)(a)). The measure therefore complies with point 47(g) of the Temporary Crisis Framework.

[10] See Commission case practice available on the Commission's website: https://competition-policy.ec.europa.eu/state-aid/ukraine_en

- 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 financial intermediary will not receive a management fee and the measure will be open to all financial institutions, enabling competition between them which will drive down interest rates. The safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (18)(h)). 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 (recital (24)).

- 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 (18)(g)).

(41) The Commission also considers that the notified liquidity support in the form of subsidised loans 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:

- Loans under the measure granted in response to the current crisis will not be granted to credit institutions or other financial institutions (recital (13)). The measure therefore complies with point 50(a) of the Temporary Crisis Framework.

- The applicable interest rates for loans granted under the measure are equal to the base rate (as published by the Commission)[11] available on 1 February 2022 plus a credit margin of 25, 50 and 100 bps for SMEs and 50, 100 and 200 bps for large enterprises on loans with a maturity of, respectively, one, two to three, and four to six years, and the minimum all-in interest rate is at least 10 bps per year (recital (19)(e)). The measure therefore complies with point 50(b) of the Temporary Crisis Framework.

- The loan contracts will be signed by 31 December 2022 at the latest and are limited to a maximum of six years (recitals (19)(c) and (19)(b)). The measure therefore complies with point 50(d) of the Temporary Crisis Framework.

- The maximum loan amount per beneficiary granted under the subsidised loan scheme is in line with point 50(e)(i) and point 50 (e)(ii) of the Temporary Crisis Framework (recital (19)(d)).

- Loans granted under the measure relate to working capital needs (recital (19)(a)). The measure therefore complies with point 50(f) of the Temporary Crisis Framework.

[11] Base rates calculated in accordance with the Commission's Communication on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

- The cumulation rules set out in point 49 of the Temporary Crisis Framework are respected (recital (24)).

- 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 Commission notes that financial intermediaries will not receive a management fee and only a restricted administration fee. The received interest will be transferred to the Fund. The safeguards thus ensure that financial intermediaries, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries without conditioning the granting of subsidised loans under this section to refinancing existing loans. (recital (19)(f)). The measure therefore complies with point 50(g) of the Temporary Crisis Framework.

(42) The Lithuanian 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 (4)).

(43) The Lithuanian 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 (15)).

(44) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (27)). The Lithuanian 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 (26)).

(45) 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