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**Subject: State Aid SA. 111369 (2023/N) – Italy**  
**TCTF: SMEs Guarantee Fund (reintroduction of scheme**  
**SA.103403 (2022/N) as amended by SA.105124 (2022/N))**

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 27 December 2023, Italy notified the reintroduction of the guarantees under aid scheme SA.103403 (2022/N) “*TCF: Loan guarantees for SMEs and small mid-caps*”, as amended by SA.105124 (2022/N) – “*TCF: Loan guarantees for SMEs and small mid-caps (amendments to SA.103403)*” (the ‘original aid scheme’), which the Commission approved under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the ‘Temporary Crisis Framework’) <sup>(1)</sup> by

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<sup>(1)</sup> 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 426, 9.11.2022, p.1).

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decisions of 29 July 2022 <sup>(2)</sup> (the ‘initial decision’) and of 20 December 2022 <sup>(3)</sup>. Italy submitted additional information on 26 January and 16 February 2024.

- (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 Article 3 of Regulation 1/1958 <sup>(4)</sup> and to have this Decision adopted and notified in English.

## 2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

### 2.1. Basic elements of the reintroduced measure

- (3) The objective of the guarantees under the original aid scheme was 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 and its direct and indirect effects, including the sanctions imposed and the counter-measures taken, for example by Russia. The compatibility of the guarantees under the original scheme was assessed based on Article 107(3)(b) TFEU, in light of sections 1 and 2.2 of the Temporary Crisis Framework.
- (4) Italy proposes to reintroduce the guarantees under the original aid scheme with a new duration until 30 June 2024 (‘the measure’) <sup>(5)</sup> and to assess their compatibility based on Article 107(3), point (b), TFEU, in light of sections 1 and 2.1 of the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the ‘Temporary Crisis and Transition Framework’) <sup>(6)</sup>. The measure aims to remedy a serious disturbance in the Italian economy and to stimulate lending by private banks to enterprises during the current crisis, as the guarantees under the original aid scheme <sup>(7)</sup>. Italy provides, therefore, that:
- a. The estimated budget of the measure is EUR 750 million. The Italian authorities estimate that around EUR 9 billion in nominal amounts will be guaranteed under the measure.
  - b. The measure may be financed by EU funds.

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<sup>(2)</sup> Commission Decision C(2022)5607 of 29 July 2022 in case SA.103403 (OJ C 337/01, 2.9.2022, p. 12).

<sup>(3)</sup> Commission Decision C(2022)9930 of 20 December 2022 in case SA.105124 (OJ C 5/01, 6.1.2023, p. 17).

<sup>(4)</sup> Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

<sup>(5)</sup> The initial decision also included grants, assessed under section 2.1 of the Temporary Crisis Framework. Those grants are not reintroduced by the notified measure.

<sup>(6)</sup> Communication from the Commission on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3), as amended by Commission Communication C(2023)8045 (OJ C1188, 21.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1188/oj>).

<sup>(7)</sup> Recital (53)(g) of the initial decision.

- c. The nominal value of the guarantees will not at any point in time exceed EUR 280 000 per undertaking active in the primary production of agricultural products, EUR 335 000 per undertaking active in the fishery and aquaculture sectors and EUR 2.25 million per undertaking active in all other sectors <sup>(8)</sup>.
- (5) Italy confirms that where the beneficiaries are undertakings active in the processing and marketing of agricultural products, the aid is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.
- (6) For aid granted in the agriculture, fishery and aquaculture sector, Italy further confirms that:
- (a) aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market; and
- (b) aid to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) Commission Regulation (EU) No 717/2014 <sup>(9)</sup>.
- (7) Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 61(a) and 62(a) of the Temporary Crisis and Transition Framework, it will be ensured, by appropriate means such as separation of accounts, that for each of those activities the relevant ceiling is respected and that the overall maximum amount of EUR 2.25 million is not exceeded per undertaking. Where an undertaking is active exclusively in the sectors covered by point 62(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 335 000 is not exceeded per undertaking.
- (8) Apart from the provisions above that Italy introduces to comply with section 2.1 of the TCTF, Italy confirms that no further amendments are proposed to the guarantees under the original aid scheme and that all other conditions remain unaltered.
- (9) The legal basis for the reintroduction is Article 15-bis of Decree-law no. 145 of 18 October 2023, concerning “Urgent measures in the economic and fiscal field, in favour of territorial authorities, for the safeguarding of labour, and for non-deferrable necessities” (“Misure urgenti in materia economica e fiscale, in favore

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<sup>(8)</sup> Those ceilings will therefore prevail over the ceilings mentioned in recital (18) of the initial decision.

<sup>(9)</sup> Commission Regulation (EC) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 90, 28.6.2014, p. 45).

degli enti territoriali, a tutela del lavoro e per esigenze indifferibili”), as converted and amended by Law no. 191 of 15 December 2023 <sup>(10)</sup>.

- (10) Italy confirms that aid may be granted under the original aid scheme, as reintroduced with amendments, as from the notification of the Commission’s decision approving the notified measure.

## **2.2. Compliance with relevant provisions of Union law**

The Italian authorities confirm that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law.

## **2.3. Cumulation**

- (11) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the European Structural and Investment Funds (ESIF).
- (12) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations <sup>(11)</sup>, the General Block Exemption Regulation or with aid under the Agricultural Block Exemption Regulation or with aid under the Fisheries Block Exemption Regulation <sup>(12)</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (13) 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.
- (14) The Italian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission

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<sup>(10)</sup> Italian Official Journal no. 293 of 16 December 2023.

<sup>(11)</sup> 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).

<sup>(12)</sup> 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 (EU) 2022/2472 of 14 December 2022 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 327, 21.12.2022, p. 1) and Commission Regulation (EU) 2022/2473 of 14 December 2022 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 327, 21.12.2022, p. 82).

under other sections of the Temporary Crisis and Transition Framework provided the provisions in those specific sections are respected.

- (15) Italy confirms that for aid granted under sections 2.1 of the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework, the aid ceilings provided in the respective sections of the Temporary Crisis and Transition Framework are respected at any point in time.
- (16) 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 2.1 of the Temporary Crisis and Transition Framework, the overall maximum cap per undertaking, as set out in point(s) 61(a) and 62(a) of that framework, will be respected. Aid granted under the measure and other measures approved by the Commission under section 2.1 of the Temporary Crisis and Transition Framework which has been reimbursed before granting new aid under the notified measure will not be taken into account in determining whether the relevant ceiling is exceeded.

### **3. ASSESSMENT**

#### **3.1. Existence of State aid**

- (17) 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 be liable to affect trade between Member States.
- (18) The guarantees under the original aid scheme constitute State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (40) to (45) of the initial decision. The notified reintroduction of the measure with amendments does not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decision and concludes that the guarantees under original aid schemes, as reintroduced, constitute State aid within the meaning of Article 107(1) TFEU.

#### **3.2. Compatibility**

- (19) The guarantees under the original aid scheme, as reintroduced, have been designed to meet the requirements of a specific category of aid (*‘Limited amounts of aid’*) described in section 2.1 of the Temporary Crisis and Transition Framework. Therefore, the Commission refers to the assessment in recitals (46) to (50) of the initial decision.
- (20) 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 relevant conditions of the Temporary Crisis and Transition Framework since it meets the conditions of section 1 and section 2.1 of the Temporary Crisis and Transition Framework. In particular:
  - The aid takes the form of guarantees on loans (recital (6) of the initial decision).

- The overall nominal value of the guarantee will not exceed EUR 2.25 million per undertaking per Member State; all figures used must be gross, that is, before any deduction of tax or other charges (recital (4)(c)). The measure therefore complies with point 61(a) of the Temporary Crisis and Transition Framework.
- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (4)(a). The measure therefore complies with point 61(b) of the Temporary Crisis and Transition Framework.
- Aid will be granted under the measure by 30 June 2024 (recital (4)). The measure therefore complies with point 61(c) of the Temporary Crisis and Transition Framework.
- Aid will be granted only to undertakings affected by the crisis (recital (11) of the initial decision). The measure therefore complies with point 61(d) of the Temporary Crisis and Transition Framework.
- Aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned (recital (5)). The measure therefore complies with point 61(e) of the Temporary Crisis and Transition Framework.
- The mobilisation of the guarantees is contractually linked to specific conditions, which must be agreed between the parties when the guarantee is initially granted (recital (22) of the initial decision).
- The compliance with the requirements for aid in the form of guarantees channelled through credit institutions or other financial institutions described in point 67(i) of the Temporary Crisis and Transition Framework is ensured under the original aid scheme <sup>(13)</sup>. The Commission therefore refers to the respective assessment of the initial decision under point 47(h) of the Temporary Crisis Framework.
- The overall nominal value of the guarantee does not exceed EUR 280 000 or EUR 335 000 per undertaking active in the primary production of agricultural products, fishery and aquaculture sectors per Member State; all figures used must be gross, that is, before any deduction of tax or other charges (recital (4)(c)). The measure therefore complies with point 62(a) of the Temporary Crisis and Transition Framework.
- Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (6)(a)). The measure therefore

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<sup>(13)</sup> Recital (53)(g) of the initial decision.

complies with point 62(b) of the Temporary Crisis and Transition Framework.

- Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1(1), points (a) to (k), of Regulation (EU) No 717/2014 (recital (6)(b)). The measure therefore complies with point 62(c) of the Temporary Crisis and Transition Framework.
  - Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 61(a) and 62(a) of the Temporary Crisis and Transition Framework, Italy will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 2.25 million is not exceeded per undertaking per Member State (recital (7)). Where an undertaking is active in the sectors covered by point 62(a) of the Temporary Crisis and Transition Framework, the overall maximum amount of EUR 350 000 is not exceeded per undertaking per Member State (recital (7)). The measure therefore complies with point 63 of the Temporary Crisis and Transition Framework.
- (21) State aid measures that entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law cannot be declared compatible with the internal market <sup>(14)</sup>.
- (22) Italy has confirmed that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law. In addition, the Commission has no indications of any possible breach of Union law that would prevent the notified measure from being declared compatible with the internal market.
- (23) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.
- (24) Italy confirms that, in accordance with point 95 of the Temporary Crisis and Transition Framework, overall aid granted under sections 2.1 of the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework will not exceed the aid ceilings provided in the respective sections of the Temporary Crisis and Transition Framework at any point in time.
- (25) The Italian authorities further confirm that aid under the measure may only be cumulated with other aid if the specific provisions in the relevant sections of the Temporary Crisis and Transition Framework, the previous Temporary Crisis Framework and the cumulation rules in the relevant Regulations and applicable Communications are respected (recitals (11) to (16)).
- (26) The Italian authorities also confirm that the rules under the European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European

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<sup>(14)</sup> Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paras, 96 et seq.

Maritime, Fisheries and Aquaculture Fund (EMFAF), European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII) will be respected.

- (27) The Commission therefore concludes that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and is compatible with the internal market pursuant to Article 107(3), point (b), TFEU, since it meets all the relevant conditions of the Temporary Crisis and Transition Framework.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the reintroduction of the guarantees under the original aid scheme, as amended, on the grounds that they are compatible with the internal market pursuant to Article 107(3), point (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: <https://competition-cases.ec.europa.eu/search?caseInstrument=SA> .

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President