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II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

~~EUROPEAN COMMISSION~~

COMMUNICATION FROM THE COMMISSION

**TEMPORARY FRAMEWORK FOR STATE AID MEASURES TO SUPPORT  
THE ECONOMY IN THE CURRENT COVID-19 OUTBREAK**

~~Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak~~

(~~2020/C-91/01~~) **CONSOLIDATED VERSION**

## **1. THE COVID-19 OUTBREAK, ITS IMPACT ON THE ECONOMY AND THE NEED FOR TEMPORARY**

### **MEASURES**

#### **1.1. The COVID-19 outbreak and its impact on the economy**

1. The COVID-19 outbreak is a severe public health emergency for citizens and societies, with infections in all the Union's Member States. It is also a major shock to the global and Union's economies and a coordinated economic response of Member States and EU institutions is crucial to mitigate these negative repercussions on the EU economy.
2. This shock is affecting the economy through different channels. There is a supply shock resulting from the disruption of supply chains, there is a demand shock caused by lower consumer demand and there is the negative effect of uncertainty on investment plans and the impact of liquidity constraints for undertakings.
3. The various containment measures adopted by the Member States, such as social distancing measures, travel restrictions, quarantines and lock downs are intended to ensure that the shock is as short and limited as possible. These measures have an immediate impact on both demand and supply, and hit undertakings and employees, especially in the health,

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tourism, culture, retail and transport sectors. Beyond the immediate effects on mobility and trade, the COVID-19 outbreak is also increasingly affecting undertakings in all sectors and of all kinds, small and medium enterprises (SMEs) as well as large undertakings. The impact is also felt on global financial markets, in particular with concerns for liquidity. These effects will not be contained to one particular Member State and they will have a disruptive impact on the economy of the Union as a whole.

4. In the exceptional circumstances created by the COVID-19 outbreak, undertakings of all kinds may face a severe lack of liquidity. Solvent or less solvent undertakings alike may face a sudden shortage or even unavailability of liquidity. SMEs are at particular risk. This can therefore seriously affect the economic situation of many healthy undertakings and their employees in the short and medium term, while having also longer-lasting effects by endangering their survival.

5. Banks and other financial intermediaries have a key role to play in dealing with the effects of the COVID-19 outbreak, by maintaining the flow of credit to the economy. If the flow of credit is severely constrained, economic activity will decelerate sharply, as undertakings struggle to pay their suppliers and employees. Against this background, it is appropriate that Member States can take measures to incentivise credit institutions and other financial intermediaries to continue to play their role in continuing supporting economic activity in the EU.

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6. Aid granted by Member States under Article 107(3)(b) TFEU under this Communication to undertakings, which is channelled through banks as financial intermediaries, benefits those undertakings directly. Such aid does not have the objective to preserve or restore the viability, liquidity or solvency of banks. Similarly, aid granted by Member States to banks under Article 107(2)(b) TFEU to compensate for direct damage suffered as a result of the COVID-19 outbreak<sup>(1)</sup> does not have the objective to preserve or restore the viability, liquidity or solvency of an institution or entity. As a result, such aid would not be qualified as extraordinary public financial support under the Directive 2014/59/EU of the European Parliament and of the Council (the BRRD)<sup>(2)</sup> nor under the Regulation 806/2014 of the European Parliament and of the Council (the SRM Regulation)<sup>(3)</sup>, and would also not be assessed under the State aid rules<sup>(4)</sup> applicable to the banking sector.<sup>(5)</sup>
7. If due to the COVID-19 outbreak, banks would need direct support in the form of liquidity recapitalisation or impaired asset measure, it will have to be assessed whether the measure meets the conditions of Article 32(4)(d) (i), (ii) or (iii) of the BRRD. Where the latter conditions were to be fulfilled, the bank receiving such direct support would not be deemed to be failing-or-likely-to-fail. To the extent such measures address problems linked to the COVID-19 outbreak, they would be deemed to fall under point 45 of the 2013 Banking Communication<sup>(6)</sup>, which sets out an exception to the requirement of burden-sharing by shareholders and subordinated creditors.
8. Undertakings may not only face insufficient liquidity, but they may also suffer significant damage because of the COVID-19 outbreak. The exceptional nature of the ~~COVID-19 outbreak means that such damages could not have been foreseen, are of a significant scale and hence put undertakings in conditions that sharply differ from the market conditions in which they normally operate. Even healthy undertakings, well prepared for the risks inherent to the normal course of business, can struggle in these exceptional circumstances, to such an extent that their viability may be undermined.~~

~~9. The COVID-19 outbreak poses the risk of a serious downturn affecting the whole economy of the EU, hitting businesses, jobs and households. Well targeted public support is needed to ensure that sufficient liquidity remains available in the markets, to counter the damage inflicted on healthy undertakings and to preserve the continuity of economic activity during and after the COVID-19 outbreak. Given the limited size of the EU budget, the main response will come from Member States' national budgets. EU State aid rules enable Member States to take swift and effective action to support citizens and undertakings, in particular SMEs, facing economic difficulties due to the COVID-19 outbreak.~~

(1) Such aid must be notified by Member States and the Commission will assess it under Article 107(2)(b) TFEU.

(2) OJ L 173, 12.6.2014, p. 190–348.

(3) OJ L 225, 30.7.2014, Article 3 (1)(29) of the SRM Regulation.

(4) Communication on the recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition (~~"Recapitalisation Communication"~~) (OJ C 10, 15.1.2009, p. 2), Communication from the Commission on the treatment of impaired assets in the Community financial sector (~~"Impaired Assets Communication"~~) (OJ C 72, 26.3.2009, p. 1), Communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules (~~"Restructuring Communication"~~) (OJ C 195, 19.8.2009, p. 9), Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of financial institutions in the context of the financial crisis (~~"2010 Prolongation Communication"~~) (OJ C 329, 7.12.2010, p. 7), Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of financial institutions in the context of the financial crisis (~~"2011 Prolongation Communication"~~) (OJ C 356, 6.12.2011, p. 7), Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis (~~"2013 Banking Communication"~~) (OJ C 216, 30.7.2013, p. 1).

(5) Any measures to support credit institutions or other financial institutions that constitute State aid in the meaning of Article 107(1) TFEU, which fall outside the present Communication or are not covered by Article 107(2)(b) TFEU must be notified to the Commission and shall be assessed under the State aid rules applicable to the banking sector.

(6) Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis ~~(~~OJ C 216, 30.7.2013, p. 1)~~)~~–15.

COVID-19 outbreak means that such damages could not have been foreseen, are of a significant scale and hence put undertakings in conditions that sharply differ from the market conditions in which they normally operate. Even healthy undertakings, well prepared for the risks inherent to the normal course of business, can struggle in these exceptional circumstances, to such an extent that their viability may be undermined.

9. The COVID-19 outbreak poses the risk of a serious downturn affecting the whole economy of the EU, hitting businesses, jobs and households. Well-targeted public support is needed to ensure that sufficient liquidity remains available in the markets, to counter the damage inflicted on healthy undertakings and to preserve the continuity of economic activity during and after the COVID-19 outbreak. Given the limited size of the EU budget, the main response will come from Member States' national budgets. EU State aid rules enable Member States to take swift and effective action to support citizens and undertakings, in particular SMEs, facing economic difficulties due to the COVID-19 outbreak.

### **1.2. The need for close European coordination of national aid measures**

10. Targeted and proportionate application of EU State aid control serves to make sure that national support measures are effective in helping the affected undertakings during the COVID-19 outbreak but also that they allow them to bounce back from the current situation, keeping in mind the importance of meeting the green and digital twin transitions in accordance with EU objectives. Likewise, EU State aid control ensures that the EU Internal Market is not fragmented and that the level playing field stays intact. The integrity of the Internal Market will also lead to a faster recovery. It also avoids harmful subsidy races, where Member States with deeper pockets can outspend neighbours to the detriment of cohesion within the Union.

### **1.3. The need for appropriate State aid measures**

11. In the overall effort of Member States to tackle the effects of the COVID-19 outbreak on their economy, this Communication sets out the possibilities Member States have under EU rules to ensure liquidity and access to finance for undertakings, especially SMEs that face a sudden shortage in this period in order to allow them to recover from the current situation.

12. The Commission set out in the Communication on a Coordinated economic response to the COVID-19 outbreak of 13 March ~~2020~~<sup>7</sup> the various options available to Member States outside the scope of EU State aid control and which they may put in place without the involvement of the Commission. These include measures applicable to all undertakings regarding wage subsidies, suspension of payments of corporate and value added taxes or social welfare contributions, or financial support directly to consumers for cancelled services or tickets not reimbursed by the concerned operators.

13. Member States can also design support measures in line with the General Block Exemption Regulation<sup>8</sup> without the involvement of the Commission.

<sup>7</sup> [Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Investment Bank and the Eurogroup on Coordinated economic response to the COVID-19 Outbreak, COM\(2020\) 112 final of 13.03.2020.](#)

<sup>8</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.](#)

14. In addition, on the basis of Article 107(3)(c) TFEU and as further specified in the Rescue and Restructuring State aid Guidelines, Member States can notify to the Commission aid schemes to meet acute liquidity needs and support undertakings facing financial difficulties, also due to or aggravated by the COVID-19 outbreak<sup>(7)</sup>.

15. Furthermore, on the basis of Article 107(2)(b) TFEU Member States can also compensate undertakings in sectors that have been particularly hit by the outbreak (e.g. transport, tourism, culture, hospitality and retail) and/or organisers of cancelled events for damages suffered due to and directly caused by the outbreak. Member States can notify such damage compensation measures and the Commission will assess them directly under Article 107(2)(b) TFEU.<sup>(10)</sup> The principle of ‘one time last time’<sup>(11)</sup> of the Rescue and Restructuring Guidelines does not cover aid that the

~~(7) Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Investment Bank and the Eurogroup on Coordinated economic response to the COVID-19 Outbreak, COM(2020) 112 final of 13. 3. 2020.~~

~~(8) 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).~~

~~(9) Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1). The Commission has authorised various schemes in nine different Member States.~~

~~(10) See for example, Commission decision SA. 56685, Denmark – Compensation scheme for cancellation of events related to COVID-19, [https://ec.europa.eu/competition/state\\_aid/cases1/202011/285054\\_2139535\\_70\\_2.pdf](https://ec.europa.eu/competition/state_aid/cases1/202011/285054_2139535_70_2.pdf).~~

~~(11) See section 3.6.1 of the Rescue and Restructuring Guidelines.~~

Commission declares compatible under Article 107(2)(b) TFEU, since the latter type of aid is not “rescue aid, restructuring aid or temporary restructuring support” within the meaning of point 71 of the Rescue and Restructuring Guidelines. Therefore, Member States may compensate under Article 107(2)(b) TFEU the damages directly caused by the COVID-19 outbreak to undertakings that have received aid under the Rescue and Restructuring Guidelines.

16. To complement the above mentioned possibilities, the Commission sets out in this Communication additional temporary State aid measures that it considers compatible under Article 107 (3)(b) TFEU, which can be approved very rapidly upon notification by the Member State concerned. Moreover, notification of alternative approaches – both aid schemes and individual measures – remains possible. The aim of this Communication is to lay down a framework that allows Member States to tackle the difficulties undertakings are currently encountering whilst maintaining the integrity of the EU Internal Market and ensuring a level playing field.

16bis. Furthermore, the Commission considers that beyond aid measures allowed under Article 107(3)(b) TFEU and existing possibilities under Article 107(3)(c) TFEU, it is also essential to accelerate COVID-19 relevant research and development, to support testing and upscaling infrastructures that contribute to develop COVID-19 relevant products, as well as to support the production of products needed to respond to the outbreak. Therefore, this Communication lays down the conditions under which the Commission will consider such measures compatible with the internal market under Article 107(3)(c) TFEU. The Commission took due consideration of the common objective pursued by such aid measures and their positive effects on tackling the health emergency crisis provoked by the COVID-19 outbreak when balancing them against the potential negative effects of such measures on the internal market.

## **2. APPLICABILITY OF ARTICLE 107(3)(B) OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN**

### **UNION**

17. 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’. In this context, the Union courts have ruled that the disturbance must affect the whole or

<sup>2</sup> [Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p.1. The Commission has authorised various schemes in nine different Member States.](#)

<sup>3</sup> [See for example, Commission decision SA. 56685, Denmark - Compensation scheme for cancellation of events related to COVID-19.](#)

[https://ec.europa.eu/competition/state\\_aid/cases1/202011/285054\\_2139535\\_70\\_2.pdf](https://ec.europa.eu/competition/state_aid/cases1/202011/285054_2139535_70_2.pdf).

<sup>4</sup> [See section 3.6.1 of the Rescue and Restructuring Guidelines.](#)

an important part of the economy of the Member State concerned, and not merely that of one of its regions or parts of its territory. This, moreover, is in line with the need to make a strict interpretation of any exceptional provision such as Article 107(3)(b) TFEU.<sup>(12)</sup> This interpretation has been consistently applied by the Commission in its decision-making.<sup>(13)</sup>

18. Considering that the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings, the Commission considers that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs.

19. The Commission sets out in this Communication the compatibility conditions it will apply in principle to the aid granted by Member States under Article 107(3)(b) TFEU. Member States must therefore show that the State aid measures notified to the Commission under this Communication are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of the Member State concerned and that all the conditions of this Communication are fully respected.

20. All aid in the different sections of this Communication may be cumulated with each other except:

a. for aid granted under section 3.2 and section 3.3, if the aid is granted for the same underlying loan and the overall loan amount per undertaking exceeds the thresholds set out in point 25 d) or 27 d) of this Communication; and

~~20b. Aid granted under section 3.1 may be cumulated either with aid under section 3.2 or section 3.3, and with~~for aid granted under section 3.5 of this Communication. ~~(3.6, section 3.7 and section 3.8, if the aid concerns the same eligible costs.~~<sup>14)</sup>

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### **3. TEMPORARY STATE AID MEASURES**

#### **3.1. Aid in form of direct grants, repayable advances or tax advantages**

~~21. Beyond the existing possibilities based on Article 107(3)(c) TFEU, temporary limited amounts of aid to undertakings that find themselves facing a sudden shortage or even unavailability of liquidity can be an appropriate, necessary and targeted solution during the current circumstances.~~

<sup>(12)</sup> Joined Cases T-132/96 and T-143/96 Freistaat Sachsen, Volkswagen AG and Volkswagen Sachsen GmbH v Commission, ECLI:EU:T:1999:326, paragraph 167.

<sup>(13)</sup> Commission Decision 98/490/EC in Case C 47/96 Crédit Lyonnais (OJ L 221, 8.8.1998, p. 28), point 10.1; Commission Decision 2005/345/EC in Case C 28/02 Bankgesellschaft Berlin (OJ L 116, 4.5.2005, p. 1), points 153 et seq.; and Commission Decision 2008/263/EC in Case C 50/06 BAWAG (OJ L 83, 26.3.2008, p. 7), point 166. See Commission Decision in Case NN 70/07 Northern Rock (OJ C 43, 16.2.2008, p. 1), Commission Decision in Case NN 25/08 Rescue aid to Risikoabschirmung WestLB (OJ C 189, 26.7.2008, p. 3) and Commission Decision of 4 June 2008 in State aid C 9/08 SachsenLB (OJ L 104, 24.4.2009, p. 34), and Commission Decision of 16 June 2017 in case .SA.32544 (2011/C) Restructuring of TRAINOSE S.A (OJ L 186, 24.7.2018, p.25).

<sup>(14)</sup> ~~The temporary aid measures provided for by this Communication can be cumulated with aid falling within the scope of the de minimis Regulation (OJ L 352, 24.12.2013).~~

<sup>14</sup> Provided the rules under the 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 (General Block Exemption Regulation) and under the different de minimis Regulations are respected, the temporary aid measures covered by this Communication may be cumulated in line with the cumulation rules set out in the General



*Block Exemption Regulation and in the different de minimis Regulations, namely, 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 of 26.4.2012, p. 8).*

### 3. TEMPORARY STATE AID MEASURES

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21. Beyond the existing possibilities based on Article 107(3)(c) TFEU, temporary limited amounts of aid to undertakings that find themselves facing a sudden shortage or even unavailability of liquidity can be an appropriate, necessary and targeted solution during the current circumstances.

22. *The Commission will consider such State aid compatible with the internal market on the basis of Article 107(3)(b) TFEU, provided that all the following conditions are met (the specific provisions for the primary ~~agricultural and~~ agriculture, the fishery and aquaculture sectors are set out in point 23):*

*a. ~~the~~ The overall aid does not exceed EUR 800 000 per undertaking. The aid may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, ~~tax or~~*

*guarantees, loans and equity provided the total nominal value of such measures remains below the overall cap of EUR 800 000 per undertaking ~~payments advantages~~; all figures used must be gross, that is, before any deduction of tax or other charge;*

*b. the aid is granted on the basis of a scheme with an estimated budget;*

*c. ~~the aid~~ Aid may not be granted to undertakings that were ~~not~~ already in difficulty (within the meaning of the General Block Exemption Regulation<sup>(15)</sup>) on 31 December 2019; ~~it may be granted to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019, but that faced difficulties or entered in difficulty thereafter as a result of the COVID-19 outbreak;~~*

*d. the aid is granted no later than 31 December 2020;*<sup>(16)</sup>

*e. the aid granted to undertakings active in the processing and marketing of agricultural products<sup>(17)</sup> 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 purchased from primary producers or put on the market by the undertakings concerned.*

23. *By way of derogation from point 22(a), ~~for agricultural, fisheries and aquaculture sectors~~ the following specific conditions shall apply to aid granted to undertakings in the agriculture, fishery and aquaculture sectors, in addition to the conditions of point 22 (b) to (e):*

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*a. ~~the aid does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector~~ <sup>(18)</sup> ~~or EUR 100 000 per undertaking active in the primary production of agricultural products~~ <sup>(19)</sup>; all figures used must be gross, that is, before any deduction of tax or other charge;*

*b. ~~aid 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;~~*

*c. ~~aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014~~*

~~(<sup>20</sup>);~~

~~d. where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22.a and 23(a), the Member State concerned ensures, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected and that the highest possible amount is not exceeded in total;~~

~~e. all other conditions in paragraph 22 apply. (<sup>21</sup>)~~

~~(<sup>15</sup>) As defined in Article 2 (18) of the 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). Wherever reference is made in this Temporary Framework to the definition of “undertaking in difficulty” as contained in Article 2(18) of Regulation (EU) No 651/2014, it shall be read as also referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation 1388/2014 respectively.~~

~~(<sup>16</sup>) If the aid is granted in form of tax advantages, this deadline is not applicable and the aid is considered granted when the 2020 tax declaration is due.~~

~~(<sup>17</sup>) As defined in Article 2(6) and Article 2(7) of 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).~~

~~(<sup>18</sup>) Products listed in Annex I to Regulation No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).~~

~~(<sup>19</sup>) All products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector, cf. previous footnote 18.~~

~~(<sup>20</sup>) 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 90, 28.6.2014, p. 45).~~

~~(<sup>21</sup>) The reference to the definition of ‘undertaking in difficulty’ referred to in point 22 (c) and footnote 15 and 30 shall be read as referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation 1388/2014 respectively.~~

- a. the overall aid does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector<sup>18</sup> or EUR 100 000 per undertaking active in the primary production of agricultural products<sup>19</sup>; the aid may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity provided the total nominal value of such measures does not exceed the overall cap of EUR 120 000 or EUR 100 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge;
- b. aid 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;
- c. aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014<sup>20</sup>.

23bis. Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a), the Member State concerned shall ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities.

### 3.2. Aid in the form of guarantees on loans

24. In order to ensure access to liquidity to undertakings facing a sudden shortage, public guarantees on loans for a limited period and loan amount can be an appropriate, necessary and targeted solution during the current circumstances.
25. The Commission will consider such State aid granted in the form of new public guarantees on individual loans in response to the COVID-19 outbreak as compatible with the internal market on the basis of Article 107(3)(b) TFEU provided:
- a. Guarantee premiums are set per individual loans at a minimum level-as follows, which shall increase progressively as the duration of the guaranteed loan increases, as set out in the following table:

Type of recipient	<del>Credit risk margin for a For 1<sup>st</sup> year maturity loan</del>	<del>For 2<sup>nd</sup>-3<sup>rd</sup> year</del> <sup>Credit</sup> <del>risk margin for a 2-3 years maturity loan</del>	<del>Credit risk margin for a For 4<sup>th</sup>-6<sup>th</sup> years maturity loan</del>
SMEs	25bps	50bps	100bps
Large enterprises	50bps	100bps	200bps

- b. As an alternative, Member States may notify schemes, considering the above table as a basis, but whereby ~~maturity, pricing~~ guarantee duration, guarantee premiums and guarantee coverage can ~~may~~ be modulated (e.g. for each underlying individual loan principal, such as lower guarantee coverage offsetting a longer maturity); could offset a longer duration or could allow lower guarantee premiums; a flat premium may be used for the entire duration of the guarantee, if it is higher than the minimum premiums for the 1<sup>st</sup> year set out in the

<sup>18</sup> As defined in Article 2(1) of 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.

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<sup>19</sup> [All products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector.](#)

<sup>20</sup> [Commission Regulation \(EC\) No \(EU\) 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 90, 28.6.2014, p. 45.](#)

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table above for each type of beneficiary, as adjusted according to guarantee duration and guarantee coverage under this paragraph:

- c. The guarantee is granted by 31 December 2020 at the latest;
- d. For loans with a maturity beyond 31 December 2020, the overall amount of ~~the loan principal does~~ loans per beneficiary shall not exceed:
- i. ~~the double of the~~ annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the ~~undertakings~~ undertaking's site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or
  - ii. 25% of the beneficiary's total turnover ~~of the beneficiary~~ in 2019; or
  - iii. with appropriate justification and based on ~~a~~ self-certification by the beneficiary of its liquidity needs ~~(<sup>23</sup>)<sup>21</sup>~~, the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises.
- e. For loans with a maturity until 31 December 2020, the amount of the loan principal may be higher than under point 25(d) with appropriate justification and provided that the proportionality of the aid remains assured;
- f. The duration of the guarantee is limited to maximum six years, unless modulated according to point 25 (b), and the public guarantee ~~does~~ may not exceed:
- i. 90% of the loan principal where losses are sustained proportionally and under same conditions; by the credit institution and the State; or
  - ii. 35% of the loan principal, where losses are first attributed to the State and only then to the credit institutions (i.e. a first-loss guarantee); and
  - iii. in both of the above cases, when the size of the loan decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount ~~has to~~ must decrease proportionally;
- g. The guarantee ~~may~~ shall relate to ~~both~~ investment and or working capital loans;
- h. The guarantee may not be granted to undertakings that were ~~not~~ already in difficulty (within the meaning of the General Block Exemption Regulation ~~(<sup>23</sup>)<sup>22</sup>~~) on 31 December 2019; ~~it may be granted to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019, but that faced difficulties or entered in difficulty thereafter as a result of the COVID-19 outbreak.~~

### 3.3. Aid in the form of subsidised interest rates for loans

26. In order to ensure access to liquidity to undertakings facing a sudden shortage, subsidised interest rates for a limited period and loan amount can be an appropriate.

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<sup>(23)</sup>~~21~~ The liquidity plan may include both working capital and investment costs.

<sup>(23)</sup>~~22~~ As defined in Article 2 (18) of the 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)~~.

### 3.3. Aid in the form of subsidised interest rates for loans

26. In order to ensure access to liquidity to undertakings facing a sudden shortage, subsidised interest rates for a limited period and loan amount can be an appropriate, necessary and targeted solution during the current circumstances. For the same underlying loan principal, aid granted under section 3.2 and section 3.3 cannot be cumulated.

27. The Commission will consider State aid in the form of subsidies to public loans in response to the COVID-19 outbreak as compatible with the internal market on the basis of Article 107(3)(b) TFEU provided the following conditions are met:

- a. The loans may be granted at reduced interest rates which are at least equal to the base rate (1 year IBOR or equivalent as published by the Commission<sup>(24)</sup><sup>23</sup>) applicable on 1 January 2020 plus the credit risk margins as set-out in the table below:

Type of recipient	Credit risk margin for a 1 <sup>st</sup> year maturity loan	Credit risk margin for a 2 <sup>nd</sup> - 3 <sup>rd</sup> year maturity loan	Credit risk margin for a 4 <sup>th</sup> - 6 years maturity loan
SMEs	25bps <sup>(25)</sup> <sup>24</sup>	50bps <sup>(26)</sup> <sup>25</sup>	100bps
Large enterprises	50bps	100bps	200bps

- b. As an alternative, Member States may notify schemes, considering the above table as a basis, but whereby ~~maturity, pricing and guarantee coverage can be modulated (e.g. lower guarantee coverage offsetting a longer maturity);~~ the loan maturity and the level of credit risk margins may be modulated, such as a flat credit risk margin may be used for the entire duration of the loan, if it is higher than the minimum credit risk margin for the 1st year for each type of beneficiary, as adjusted according to the loan maturity under this paragraph<sup>26</sup>;
- c. The loan contracts are signed by 31 December 2020 at the latest and are limited to maximum ~~six~~ six years, unless modulated according to point 27 (b);
- d. For loans with a maturity beyond 31 December 2020, the overall amount of the ~~loan~~ does loans per beneficiary shall not exceed:
- i. ~~the double of~~ the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the company undertaking's site but formally in the payroll of subcontractors) for 2019 or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or
- ii. 25% of the beneficiary's total turnover ~~of the beneficiary~~ in 2019; or
- iii. with appropriate justification and based on self-certification by the ~~beneficiary's~~ beneficiary of its liquidity needs<sup>(27)</sup>, the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises<sup>28</sup>;

~~e. For loans with a maturity until 31 December 2020, the amount of the loan principal may be higher than under point 27(d) with appropriate justification and provided that proportionality of the aid remains assured.~~

~~f. The loan may relate to both investment and working capital needs;~~

~~g. The loan may be granted to undertakings that were not in difficulty (within the meaning of the General Block Exemption Regulation <sup>(25)</sup>) on 31 December 2019; it may be granted to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019, but that faced difficulties or entered in difficulty thereafter as a result of the COVID-19 outbreak.~~

<sup>(24)</sup> <sup>23</sup> Base rates calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p.6.) and published on the website of DG Competition at [https://ec.europa.eu/competition/state\\_aid/legislation/reference\\_rates.html](https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html).

<sup>24</sup> ~~The minimum all in interest rate (base rate plus the credit risk margins) should be at least 10bps per year.~~

<sup>(25)</sup> ~~The minimum all in interest rate (base rate plus the credit risk margins) should be at least 10bps per year.~~

<sup>(26)</sup> ~~The minimum all in interest rate (base rate plus the credit risk margins) should be at least 10bps per year.~~

<sup>(27)</sup> ~~The liquidity needs may include both working capital and investment costs.~~

<sup>(28)</sup> ~~As defined in Article 2 (18) of the 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).~~



e. For loans with a maturity until 31 December 2020, the amount of the loan principal per beneficiary may be higher than under point 27(d) with appropriate justification and provided that the proportionality of the aid remains assured;

f. The loan shall relate to investment and/or working capital needs;

g. The loan may not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation<sup>28</sup>) on 31 December 2019.

### **3.4. Aid in the form of guarantees and loans channelled through credit institutions or other financial institutions**

28. Aid in the form of public guarantees and reduced interest rates pursuant to section 3.2 and section 3.3 of this Communication can be provided to the undertakings facing a sudden liquidity shortage directly or through credit institutions and other financial institutions as financial intermediaries. In the latter case, the conditions set out below must be complied with.

29. While such aid is directly targeting undertakings facing a sudden liquidity shortage and not credit institutions or other financial institutions, it may also constitute an indirect advantage to the latter. Nevertheless, such indirect aid does not have the objective to preserve or restore the viability, liquidity or solvency of the credit institutions. As a result, the Commission considers that such aid should not be qualified as extraordinary public financial support according to Article 2(1) No 28 BRRD and Article 3(1) No 29 SRM-R, and should not be assessed under the State aid rules applicable to the banking sector<sup>(29)</sup>.

30. In any event, it is appropriate to introduce certain safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition.

31. The credit institutions or other financial institutions should, to the largest extent possible, pass on the advantages of the public guarantee or subsidised interest rates on loans to the final beneficiaries. The financial intermediary shall be able to demonstrate that it operates a mechanism that ensures that the advantages are passed on to the largest extent possible to the final beneficiaries in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates. When there is a legal obligation to extend the maturity of existing loans for SMEs no guarantee fee may be charged.

### **3.5. Short-term export credit insurance**

32. ~~The Communication from the Commission on short-term export-credit insurance~~ <sup>(30)</sup> ~~(the “STEC”)~~ ~~stipulates~~ provides that marketable risks ~~cannot~~ shall not be covered by export-credit insurance with the support of Member States. ~~(31)~~ As a consequence of the current outbreak, it cannot be excluded that, in certain COVID-19 outbreak and after having conducted the public consultation on the availability of short-term

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<sup>28</sup> As defined in Article 2 (18) of the 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.

<sup>29</sup> See point 6 of this Temporary Framework.

~~countries export-credit insurance for exports to all currently marketable risk countries, the Commission found that there is a lack of sufficient private insurance capacity for short-term export credits in general and that the cover for marketable risks could be temporarily unavailable.~~<sup>(32)</sup>

~~33. In this context, Member States may demonstrate the lack of market by providing sufficient evidence of the unavailability of cover for the risk in the private insurance market. Use of the exemption concerning non-marketable risks envisaged in paragraph 18(d) of the STEC will in any case be considered justified, if:~~

~~a. a large well-known international private export credits insurer and a national credit insurer produce evidence of the unavailability of such cover; or~~

~~b. at least four well-established exporters in the Member State produce evidence of refusal of cover from insurers for specific operations.~~

33. In that context, the Commission considers all commercial and political risks associated with exports to the *countries listed in the Annex to STEC as temporarily non-marketable until 31 December 2020.*<sup>30</sup>

### 3.6. Aid for COVID-19 relevant research and development

34. Beyond the existing possibilities based on Article 107(3)(c) TFEU, it is essential to facilitate COVID-19 relevant research and development (R&D) to address the current emergency health crisis.

35. The Commission will consider compatible with the internal market aid for R&D projects carrying out COVID-19 and other antiviral relevant research<sup>31</sup> including projects having received a COVID-19-specific Seal of Excellence quality label under the Horizon 2020 SME-instrument, provided that all the following conditions are met:

a. The aid is granted in the form of direct grants, repayable advances or tax advantages by 31 December 2020;

b. For R&D projects started as of 1 February 2020 or for projects having received a COVID-19-specific Seal of Excellence, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;

c. Eligible costs may refer to all the costs necessary for the R&D project during its duration, including amongst others, personnel costs, costs for digital and computing equipment, for diagnostic tools, for data collection and processing tools, for R&D services, for pre-clinical and clinical trials (trial phases I-IV), for obtaining, validating and defending patents and other intangible assets, for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and medical equipment, disinfectants, and personal protective equipment; phase-IV trials are eligible as long as they allow further scientific or technological advance;

<sup>30</sup> *Communication from the Commission amending the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, C(2020)2044 final of 27 March 2020, OJ C 1011 of 28.3.2020, p1.*

<sup>31</sup> *COVID-19 and other antiviral relevant research includes research into vaccines, medicinal products and treatments, medical devices and hospital and medical equipment, disinfectants, and protective clothing and equipment, and into relevant process innovations for an efficient production of the required products.*

- d. The aid intensity for each beneficiary may cover 100% of eligible costs for fundamental research and shall not exceed 80% of eligible costs for industrial research and experimental development;<sup>32</sup>
- e. The aid intensity for industrial research and experimental development may be increased by 15 percentage points, if more than one Member State supports the research project, or it is carried out in cross-border collaboration with research organisations or other undertakings;
- f. Aid under this measure may be combined with support from other sources for the same eligible costs, provided the combined aid does not exceed the ceilings defined under points (d) and (e) above;
- g. The aid beneficiary shall commit to grant non-exclusive licences under non-discriminatory market conditions to third parties in the EEA;
- h. Aid may not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation<sup>33</sup>) on 31 December 2019.

### **3.7. Investment aid for testing and upscaling infrastructures**

- 36. Beyond the existing possibilities based on Article 107(3)(c) TFEU, it is essential to support testing and upscaling infrastructures that contribute to develop COVID-19 relevant products.
- 37. The Commission will therefore consider investment aid for the construction or upgrade of testing and upscaling infrastructures required to develop, test and upscale, up to first industrial deployment prior to mass production, COVID-19 relevant products as outlined in section 3.8 compatible with the internal market provided the following conditions are met:
  - a. The aid is granted for the construction or upgrade of testing and upscaling infrastructures required to develop, test and upscale, up to first industrial deployment prior to mass production, COVID-19 relevant medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators and protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; as well as data collection/processing tools;
  - b. The aid is granted in the form of direct grants, tax advantages or repayable advances by 31 December 2020;
  - c. For projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an

<sup>32</sup> As defined in paragraph (84), (85) and (86) of Article 2 of the 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.

<sup>33</sup> As defined in Article 2 (18) of the 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.

incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;

- d. The investment project shall be completed within six months after the date of granting the aid. An investment project is considered completed when it is accepted by the national authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants or tax advantages shall be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid;
- e. Eligible costs are the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the products listed in point (a) above. The aid intensity shall not exceed 75% of the eligible costs;
- f. The maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of aid granting or date of application of the tax advantage, or if the support comes from more than one Member State. If the aid is granted in form of a repayable advance, and the investment is completed within two months, or if the support comes from more than one Member State, an additional 15 percentage points may be granted;
- g. The aid under this measure shall not be combined with other investment aid for the same eligible costs;
- h. A loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance, or as an independent aid measure. The loss cover guarantee is issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project;
- i. The price charged for the services provided by the testing and upscaling infrastructure shall correspond to the market price;
- j. The testing and upscaling infrastructures shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings, which have financed at least 10 % of the investment costs may be granted preferential access under more favourable conditions;

- k. *Aid may not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation<sup>34</sup>) on 31 December 2019.*

### 3.8. Investment aid for the production of COVID-19 relevant products

38. Beyond the existing possibilities based on Article 107(3)(c) TFEU, it is essential to facilitate the production of COVID-19 relevant products. This includes: relevant medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators, protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; data collection/processing tools.

39. The Commission will consider investment aid for the production of COVID-19 relevant products compatible with the internal market provided the following conditions are met:

- a. The investment aid is granted for the production of COVID-19 relevant products, such as medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators, protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; data collection/processing tools;
- b. The aid is granted in the form of direct grants, tax advantages or repayable advances by 31 December 2020;
- c. For projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;
- d. The investment project is completed within six months after the date of granting the aid. An investment project is considered completed when it is accepted by the national authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants or tax advantages is to be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid;
- e. Eligible costs relate to all investment costs necessary for the production of the products listed in point (a) and to the costs of trial runs of the new production facilities. The aid intensity shall not exceed 80% of the eligible costs;

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<sup>34</sup> As defined in Article 2 (18) of the 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.

- f. The maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of the aid granting or the date of application of the

tax advantage, or if the support comes from more than one Member State. If the aid is granted in the form of a repayable advance and the investment is completed within two months or if the support comes from more than one Member State an additional 15 percentage points may be granted;

g. Aid under this measure shall not be combined with other investment aid for the same eligible costs;

h. A loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance or as an independent aid measure. The loss cover guarantee is issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project;

i. Aid may not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation<sup>35</sup>) on 31 December 2019.

### **3.9. Aid in form of deferrals of tax and/or of social security contributions**

40. Deferrals of payment of taxes and/or of social security contributions may be a valuable tool to reduce the liquidity constraints of undertakings (including self-employed individuals) and preserve employment. Where such deferrals are of a general application and do not favour certain undertakings, or the production of certain goods, they do not fall within the scope of Article 107(1) TFEU. If they are restricted for example to certain sectors, regions or types of undertakings, they involve aid within the meaning of Article 107(1) TFEU.<sup>36</sup>

41. The Commission will consider compatible with the internal market on the basis of Article 107(3)(b) TFEU aid schemes that consist in temporary deferrals of taxes or of social security contributions which apply to undertakings (including self-employed individuals) that are particularly affected by the COVID-19 outbreak, for example in specific sectors, regions or of a certain size. This applies also to measures provided for in relation to fiscal and social security obligations intended to ease the liquidity constraints faced by the beneficiaries, included but not limited to the deferral of payments due in instalments, easier access to tax debt payment plans and of the granting of interest free periods, suspension of tax debt recovery, and expedited tax refunds. The aid shall be granted before 31 December 2020 and the end date for the deferral shall not be later than 31 December 2022.

<sup>35</sup> As defined in Article 2 (18) of the 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.

<sup>36</sup> See also point 118 of the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union C/2016/2946, OJ C 262, 19.7.2016, p. 1–50.

### 3.10. Aid in form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak

42. In order to preserve employment, Member States may envisage contributing to the wage costs of undertakings (including self-employed individuals), which, due to the COVID-19 outbreak, would otherwise lay off personnel. If such support schemes apply to the whole economy, they fall outside the scope of Union State aid control. If they provide undertakings with a selective advantage, which can happen if they are restricted to certain sectors, regions or types of undertakings, they involve aid within the meaning of Article 107(1) TFEU.
43. If such measures constitute aid, the Commission will consider them compatible with the internal market on the basis of Article 107(3)(b) TFEU provided the following conditions are met:
- a. The aid is aimed at avoiding lay-offs during the COVID-19 outbreak;
  - b. The aid is granted in the form of schemes to undertakings in specific sectors, regions or of a certain size that are particularly affected by the COVID-19 outbreak;
  - c. The wage subsidy is granted over a period of not more than twelve months after the application for aid, for employees that would otherwise have been laid off as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak, and subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted;
  - d. The monthly wage subsidy shall not exceed 80% of the monthly gross salary (including employer's social security contributions) of the benefitting personnel. Member States may also notify, in particular in the interest of low wage categories, alternative calculation methods of the aid intensity, such as using the national wage average or minimum wage, provided the proportionality of the aid is maintained;
  - e. The wage subsidy may be combined with other generally available or selective employment support measures, provided the combined support does not lead to overcompensation of the wage costs of the personnel concerned. Wage subsidies may further be combined with tax deferrals and deferrals of social security payments.

## **4. MONITORING AND REPORTING**

- ~~3444. Except aid granted under section 3.9 and 3.10, Member States must publish relevant information<sup>(33)</sup><sup>37</sup> on each individual aid granted under this Communication on the comprehensive State aid website within 12 months from the moment of granting.~~

~~<sup>(30)</sup> See point 6 of this Temporary Framework.~~

~~<sup>(30)</sup> OJ C 392, 19.12.2012, p.1.~~

~~<sup>(31)</sup> Marketable risks are commercial and political risks on public and non-public debtors established in countries listed in the Annex to the STEC, with a maximum risk period of less than two years.~~

~~<sup>(32)</sup> Section 4.2 of the STEC describes the exceptions to the definition of marketable risks for temporarily non-marketable risk, while section 4.3 sets out conditions for providing cover for temporarily non-marketable risks. Section 5 sets out the procedural requirements, in particular when a notification is required and what level of proof is required.~~

~~<sup>(33)</sup> Referring to information required in Annex III of the Commission Regulation (EU) No 651/2014 of 17 June 2014 and of Annex III of the Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014. For repayable advances, guarantees, loans, and other forms the nominal value of the underlying instrument may be inserted per beneficiary. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.~~



[comprehensive State aid website or Commission's IT tool<sup>38</sup> within 12 months from the moment of granting.](#)

~~35~~45. Member States must submit annual reports to the Commission. ~~(34)~~<sup>39</sup>

~~36~~. 46. By 31 December 2020, Member States must provide the Commission with a list of measures put in place on the basis of schemes approved based on this Communication.

~~37~~47. Member States must ensure that detailed records regarding the granting of aid provided for by this Communication are maintained. Such records, which must contain all information necessary to establish that the necessary conditions have been observed, must be maintained for 10 years upon granting of the aid and be provided to the Commission upon request.

~~38~~48. The Commission may request additional information regarding the aid granted, to verify whether the conditions laid down in the Commission decision approving the aid measure have been met.

## 5. FINAL PROVISIONS

~~39~~49. The Commission applies this Communication from 19 March 2020, having regard to the economic impact of COVID-19 outbreak, which required immediate action. This Communication is justified by the current exceptional circumstances and will not be applied after 31 December 2020. The Commission may review it before that date on the basis of important competition policy or economic considerations. Where this would be helpful, the Commission may also provide further clarifications of its approach to particular issues.

~~40~~. 50. The Commission applies the provisions of this Communication to all relevant notified measures as of 19 March 2020 even if the measures were notified prior to that date.

~~41~~. 51. In accordance with the Commission notice on the determination of the applicable rules for the assessment of unlawful State aid ~~(35)~~<sup>40</sup> the Commission applies the following in respect of non-notified aid:

- a. this Communication, if the aid was granted after 1 February 2020;
- b. the rules applicable when the aid was granted in all other cases.

~~42~~52. The Commission, in close cooperation with the Member States concerned, ensures swift adoption of decisions upon clear and complete notification of measures covered by this Communication. Member States should inform the Commission of their intentions and notify plans to introduce such measures as early and comprehensively as possible. The Commission will provide guidance and assistance to Member States in this process.

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<sup>38</sup> [The state aid transparency public search gives access to state aid individual award data provided by Member](#)

*States in compliance with the European transparency requirements for state aid and can be found at <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>.*

<sup>(34)</sup> OJ L 140, 30.4.2004, p. 1-134.

<sup>(35)</sup> OJ C 119, 22.5.2002, p. 22.

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