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COMMUNICATION FROM THE COMMISSION

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

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1. INTRODUCTION

1. On 19 March 2020, the Commission adopted its Communication ‘’Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak’’[1] (‘the Temporary Framework’), which, inter alia, sets out the possibilities Member States have under Union rules to ensure liquidity and access to finance for undertakings, especially small and medium-sized undertakings (‘SMEs’) that face a sudden shortage in this period in order to allow them to recover from the current situation. The aim is to lay down a framework that enables Member States to support undertakings experiencing difficulties due to the current COVID-19 outbreak, whilst maintaining the integrity of the EU Internal Market, ensuring a level playing field.

2. 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.

3. The aim of this Communication is to identify additional temporary State aid measures that the Commission considers compatible under Article 107(3) TFEU in light of the COVID-19 outbreak.

4. The Commission considers that beyond ensuring access to liquidity and finance, it is also essential to facilitate COVID-19 relevant research and development, to support the construction and upgrade of testing facilities of COVID-19 relevant products, as well as the setting up of additional capacities for the production for products needed to respond to outbreak. 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 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 and data collection and processing tools.

5. Furthermore, under the current circumstances it is also crucial to preserve employment. Deferrals of payment of taxes and social security contributions can be a valuable tool to reduce the liquidity constraints of undertakings and preserve employment. If such deferrals apply to the whole economy, they fall outside the scope of State aid control. If they provide undertakings with a selective advantage, which can happen if they are restricted to certain sectors (e.g. transport, tourism, health), regions or types of undertakings, they involve aid within the meaning of Article 107(1) TFEU.

6. In the same way, in order to preserve employment, Member States may envisage contributing to the wage costs of undertakings, which, due to the COVID-19 outbreak,

[1] Communication from the Commission of 19 March 2020, C(2020)1863, OJ C 091I of 20.3.2020, p.1.

would otherwise lay off personnel. If such support schemes apply to the whole economy, they fall outside the scope of State aid control. If they are restricted, for example, to certain sectors (e.g. transport, tourism, health), regions or types of undertakings, they involve aid within the meaning of Article 107(1) TFEU.

7. The Commission has a positive view vis-à-vis measures taken by Member States in order to increase flex-security and avoid massive layoffs. Temporary lay-off schemes of general application, which aim at providing employees with total or partial compensation for the loss of their remuneration while they are on furlough from their employment, would usually not be selective.

8. Moreover, the application of the Temporary Framework has shown the need to introduce additional clarifications and amendments as regards certain provisions, especially in section 3.1, section 3.2, section 3.3 and section 3.5.

2. AMENDMENTS TO THE TEMPORARY FRAMEWORK

9. The following amendments to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak will take effect as of 3 April 2020.

10. Point 16bis is introduced:

> '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.'

11. Point 20 is replaced by the following:

> '20. All aid in the different sections of this Communication may be cumulated with each other except:
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> 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
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> b. for aid granted under section 3.6, section 3.7 and section 3.8, if the aid concerns the same eligible costs.[2]'

[2] 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

12. The introductory paragraph of Point 22 and points a. and c. thereof are replaced by the following:

'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 agriculture, the fishery and aquaculture sectors are set out in point 23):

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

'c. Aid may not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation[3]) on 31 December 2019.'

13. Point 23 is replaced by the following:

'23. By way of derogation from point 22(a),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):

a. the overall aid does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector[4] or EUR 100 000 per undertaking active in the primary production of agricultural products[5]; 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;

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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] 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.

[4] 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.

[5] All products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector.

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[6].'

14. The following Point 23bis is inserted:

'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.'

15. Point 25 is replaced by the following:

'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, which shall increase progressively as the duration of the guaranteed loan increases, as set out in the following table:

Type of beneficiary	For 1st year	For 2nd -3rd year	For 4th-6th year
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 guarantee duration, guarantee premiums and guarantee coverage may be modulated for each underlying individual loan principal, such as lower guarantee coverage 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 1st year set out in the 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 loans per beneficiary shall not exceed:

i. double the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the 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

[6] 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.

ii. 25% of the beneficiary's total turnover in 2019; or

iii. with appropriate justification and based on self-certification by the beneficiary of its liquidity needs[7], 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 may not exceed:

i. 90% of the loan principal where losses are sustained proportionally and under the 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 must decrease proportionally;

g. The guarantee shall relate to investment and/or working capital loans;

h. The guarantee may not be granted to undertakings that were already in difficulty (within the meaning of the General Block Exemption Regulation[8]) on 31 December 2019.'

16. Point 27 is replaced by the following:

'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[9]) applicable on 1 January 2020 plus the credit risk margins as set-out in the table below:

Type of beneficiary	Credit risk margin for 1st year	Credit risk margin for 2nd-3rd year	Credit risk margin for 4th-6th year
SMEs	25bps[10]	50bps[11]	100bps

[7] The liquidity plan may include both working capital and investment costs.
[8] 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.
[9] 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, 19.1.2008, p.6.) and published on the website of DG Competition at https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html.
[10] The minimum all in interest rate (base rate plus the credit risk margins) should be at least 10bps per year.
[11] The minimum all in interest rate (base rate plus the credit risk margins) should be at least 10bps per year.

Large enterprises	50bps	100bps	200bps

b. As an alternative, Member States may notify schemes, considering the above table as a basis, but whereby 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[12];

c. The loan contracts are signed by 31 December 2020 at the latest and are limited to maximum six years, unless modulated according to point 27 (b);

d. For loans with a maturity beyond 31 December 2020, the overall amount of loans per beneficiary shall not exceed:

i. double the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the 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 in 2019; or

iii. with appropriate justification and based on self-certification by the beneficiary of its liquidity needs[13], 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 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[14]) on 31 December 2019.'

17. Section 3.5 is replaced by the following:

'Section 3.5: Short-term export credit insurance

32. The Communication from the Commission on short-term export-credit insurance ("STEC") provides that marketable risks shall not be covered by export-credit insurance with the support of Member States. As a consequence of the current COVID-19 outbreak and after having conducted the public consultation on the availability of short-term export-credit insurance for exports to all currently marketable risk countries, the

[12] The minimum all in interest rate (base rate plus the credit risk margins) should be at least 10bps per year.
[13] The liquidity needs may include both working capital and investment costs.
[14] 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.

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 is temporarily unavailable.

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.[15]'

18. The following section is inserted:

'Section 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[16] 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;

[15] 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 101I of 28.3.2020, p1.

[16] 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;[17]

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[18]) on 31 December 2019.'

19. The following section is introduced:

'Section 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;

[17] 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.

[18] 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.

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 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[19]) on 31 December 2019.'

20. The following section is inserted:

'Section 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;

[19] 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. 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;

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[20]) on 31 December 2019. ’

21. The following section is introduced:

‘Section 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.[21]

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

[20] 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.

[21] 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.

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.'

22. The following section is introduced:

'Section 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.'

23. Point 34 is renumbered as point 44 and replaced by the following:

‘44. Except aid granted under section 3.9 and 3.10, Member States must publish relevant information[22] on each individual aid granted under this Communication on the comprehensive State aid website or Commission’s IT tool[23] within 12 months from the moment of granting.’

24. Points 35-42 are renumbered as points 45-52.

[22] 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.

[23] 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.