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SENSITIVE* : *COMP Operations*

Subject: State Aid SA.59447 (2020/N) – Italy
COVID-19: Modifications to SA.57005, SA.57252, SA.57349,
SA.57068 and SA.57185

Excellency,

1. PROCEDURE

- (1) By electronic notification of 11 November 2020, integrated by letter of 16 November 2020, Italy notified modifications concerning the following existing aid schemes (“the existing aid schemes”):
- a) SA.57005 (2020/N) “Granting of State aid under the COVID-19 anti-crisis program provided for by article 12 of the regional law n. 5/2020 in compliance with the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak”, as modified by SA.57256 (2020/N);
 - b) SA.57252 (2020/N) “Modifications to COVID-19 Regime Quadro”, supplementing SA.57021 (2020/N);
 - c) SA.57349(2020/N): “COVID-19: Plan for the socio-economic emergency in the Campania region – Aid measures in favour of undertakings in the agricultural sector, in the fishery and aquaculture sector, in the buffalo livestock sector and in the floriculture sector”;
 - d) SA.57068 (2020/N) “Loan guarantees and grants under the ISMEA Guarantee Fund according to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak”, as modified by SA.58033 (2020/N);
 - e) SA.57185 (2020/N) “COVID-19: Loans provided by ISMEA in favour of undertakings of the agricultural and fishery sector affected by the COVID-19 outbreak”, as modified by SA.58076 (2020/N).

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

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- (2) The existing aid schemes were approved by the following Commission decisions (all together referred to as "the initial decisions") in light of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework")¹:
- (a) as regards SA.57005 (2020/N), Decision C(2020)2624 final of 21.4.2020, as amended by Decision C(2020) 3188 of 11.5. 2020;
 - (b) as regards SA.57252 (2020/N), Decision C(2020)4334 final of 24.6.2020, supplementing Decision C(2020) 3482 final of 21.5.2020;
 - (c) as regards SA.57349 (2020/N), Decision C(2020)3388 final of 19.5.2020;
 - (d) as regards SA.57068 (2020/N), Decision C(2020)2621 final of 21.4.2020, as amended by Decision C(2020) 5100 final of 20.7.2020;
 - (e) as regards SA.57185 (2020/N) Decision C(2020)2999 final of 4.5.2020, as amended by Decision C(2020) 5139 of 22.7 2020.
- (3) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (4) On 2 July 2020 and on 13 October 2020, the Commission adopted two Communications amending the Temporary Framework. The first³ notably provides that aid may be granted to micro or small enterprises (within the meaning of Annex I of the General Block Exemption Regulation ("GBER")⁴, Annex I of the Agricultural Block Exemption Regulation ("ABER")⁵ and Annex I

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3, by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3, and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to 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, OJ C 340 I, 13.10.2020, p. 1.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

³ Communication from the Commission C(2020)4509 final of 2 July 2020 on the Third amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak

⁴ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

⁵ As defined in Article 2(14) of Commission Regulation (EU) 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, OJ L 193, 1.7.2014, p. 1

of the Fisheries Block Exemption Regulation (“FIBER”)⁶ that were already in difficulty on 31 December 2019, provided that at the moment of the granting, these enterprises are not subject to collective insolvency procedure under national law, and that they have not received rescue aid or restructuring aid⁷. The second⁸ notably prolongs until 30 June 2021 the validity of the Temporary Framework, which would otherwise expire at the end of 2020.

- (5) Italy plans to modify the five existing aid schemes listed in recital (1):
 - a) for SA.57005, SA.57252 and SA.57349 to take account of both the amendments mentioned in recital (4). These schemes are thus enlarging the scope of the beneficiaries of the aid to include micro or small enterprises that were already in difficulty on 31 December 2019, at the conditions provided for in the Temporary Framework. Moreover, because of the extension of their duration, aid under these schemes may be granted until 30 June 2021;
 - b) for SA.57068 and SA.57185 to take account only of the possibility to extend their duration. Thus, aid under these schemes may be granted until 30 June 2021.
- (6) The Italian authorities confirmed that all other conditions of the existing aid schemes remain unchanged.
- (7) The modifications will only be put into effect after the Commission’s approval.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (8) By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

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

⁶ As defined in Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

⁷ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure and if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

⁸ Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to 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, OJ C 340 I, 13.10.2020, p. 1.

- (10) The existing aid schemes constitute State aid within the meaning of Article 107 (1) TFEU for the reasons set out in the initial decisions⁹. The proposed modifications do not affect that conclusion. The Commission therefore refers to the respective assessment of the aforementioned decisions and concludes that the schemes as modified constitute State aid in the meaning of Article 107 (1) of the TFEU.

3.3. Compatibility

- (11) The Commission assessed the existing aid schemes on the basis of Article 107 (3)(b) of the TFEU in light of the Temporary Framework and concluded that they were compliant with the compatibility conditions set out in that Framework.
- (12) The Commission refers to its analysis of compatibility as set out in the initial decisions¹⁰.
- (13) The notification concerns the prolongation of the existing aid schemes until 30 June 2021 and the eligibility to the aid of micro or small enterprises that were already in difficulty on 31 December 2019. As the extended duration of the existing aid schemes is in conformity with the Temporary Framework, the Commission considers that the notified prolongations do not affect the evaluation of the compatibility of the existing aid schemes with the internal market, as carried out in the initial decisions.
- (14) With regard to the notified eligibility of micro or small enterprises which were in difficulty on 31 December 2019, as explained in the latest amendment of the Temporary Framework, the Commission considers that they have been particularly affected during the current crisis by the liquidity shortage caused by the economic impact of the COVID-19 outbreak. The unprecedented supply and demand shock due to the crisis has also exacerbated the difficulties such undertakings face to access financing on the market in general, as compared to medium-sized and large enterprises. Given their limited size and limited involvement in cross-border transactions, it is therefore less likely that State aid granted to these enterprises would distort competition in the Internal Market and affect intra-EU trade than State aid granted to medium-sized and large companies. This holds true even if these enterprises were to fall under the category of an undertaking in financial difficulty already on 31 December 2019, as long as they are not subject to a collective insolvency procedure under national law and have not received rescue aid (which has not been repaid) or restructuring aid (and are still subject to a restructuring plan).

⁹ See recitals (37) to (42) of Commission Decision C(2020)2624 final of 21.4.2020 (for SA.57005); see recitals (31) to (36) of Commission Decision C(2020)3482 final of 21.5.2020 (for SA.57252); see recitals (29) to (34) of Commission Decision C(2020)3388 of 19.5.2020 (for SA.57349); see recitals (35) to (40) of Commission Decision C(2020)2621 final of 21.4.2020 (for SA.57068); see recitals (28) to (33) of Commission Decision C(2020) 2999 final of 4.5.2020 (for SA.57185).

¹⁰ See recitals (43) to (52) of Commission Decision C(2020)2624 final of 21.4.2020 (for SA.57005); see recitals (37) to (57) of Commission Decision C(2020)3482 final of 21.5.2020 and recitals (23) to (31) of Commission Decision C(2020)4334 final of 24.6.2020 (for SA.57252); see recitals (35) to (41) of Commission Decision C(2020) 3388 of 19.5.2020 (for SA.57349); see recitals (41) to (50) of Commission Decision C(2020)2621 final of 21.4.2020 (for SA.57068); see recitals (34) to (42) of Commission Decision C(2020)2999 final of 4.5.2020 (for SA.57185).

- (15) Apart from the modifications referred to in recitals (13) and (14) above, the Commission notes that there are no other alterations to the existing aid schemes (recital (6)). The Commission therefore considers that the notified modifications meet the conditions of the Temporary Framework and do not affect the compatibility analysis of the existing aid schemes as set out in the initial decisions mentioned in recital (2).
- (16) The Commission therefore considers that the measures, as modified, are necessary, appropriate, and proportionate to remedy a serious disturbance in the economy of a Member State (Italy) pursuant to Article 107 (3)(b) TFEU.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified modifications to aid schemes SA.57005 (2020/N), SA.57252 (2020/N), SA.57349 (2020/N), SA.57068 (2020/N) and SA.57185 (2020/N) on the grounds that they are compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union as interpreted by the Temporary Framework.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

