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SENSITIVE^{*}: COMP Operations

Subject: State Aid SA.57005 (2020/N) – Italy (Friuli Venezia Giulia)

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.

Excellency,

1. PROCEDURE

- (1) By electronic notification of 9 April 2020, Italy notified aid in the form of subsidised interest rates on loans and grants covering the value of interests “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”, (“the scheme”), under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”)¹. By electronic mail of 20 April 2020, Italy submitted an amended version of the scheme.
- (2) The Italian authorities confirm that the notification does not contain any confidential information.
- (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.

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

¹ Communication from the Commission - Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9.

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

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2. DESCRIPTION OF THE SCHEME

- (4) Italy considers that the COVID-19 outbreak has started to affect the real economy. The scheme aims to ensure that sufficient liquidity remains available to the undertakings, to counter the damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak.
- (5) The scheme is expressly based on Article 107(3)(b) TFEU, as interpreted by Section 2 of the Temporary Framework.

2.1. The nature and form of aid

- (6) The scheme provides aid in the form of subsidised interest rates on loans and grants covering the value of the reduced interest on those loans.

2.2. National legal basis

- (7) The legal basis for the scheme consists of:
 - a) the regional law n. 5/2020, article 12;
 - b) a draft text of the regional Council deliberation and its annex 1 “Conditions for the 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” (*“Condizioni per la concessione degli aiuti di Stato previsti dal programma Anticrisi covid-19 di cui all’articolo 12 della legge regionale 5/2020 nel rispetto della Comunicazione 2020/C 91 I/01 della Commissione europea del 19 marzo 2020”*).

2.3. Administration of the scheme

- (8) The Friuli Venezia Giulia Region is responsible for administering the scheme.

2.4. Budget and duration of the scheme

- (9) The Italian authorities confirm that no more than EUR 50 million in aid will be granted under the scheme.
- (10) Aid may be granted under the scheme as from its approval until 31 December 2020.

2.5. Beneficiaries

- (11) The final beneficiaries of the scheme, the number of which is estimated between 500 and 1000, are undertakings of all size which have an operating unit on the territory of the Friuli Venezia Giulia region.
- (12) Aid may be granted under the scheme only to undertakings that were not already in difficulty within the meaning of the Agricultural Block Exemption Regulation

(“ABER”)³ and the Fishery Block Exemption Regulation (“FIBER”)⁴ on 31 December 2019.

- (13) Aid in the form of subsidised interest rates for loans is granted under the scheme through credit institutions as financial intermediaries.

2.6. Sectoral and regional scope of the scheme

- (14) The scheme is limited to the following sectors: primary production of agricultural products, processing of agricultural products into agricultural products and non-agricultural products, marketing of agricultural products, forestry, fishery and aquaculture. It applies only to the territory of the Friuli Venezia Giulia region.

2.7. Basic elements of the scheme

- (15) Due to the outbreak of COVID-19 a large number of undertakings has not been operating since the beginning of March 2020 and is experiencing severe difficulties caused by the disruptions of the economic activity.
- (16) The scheme is designed to remedy the severe lack of liquidity suffered by the undertakings of the earmarked sectors that puts at risk the continuation of their activity.
- (17) The scheme provides aid to the eligible beneficiaries in the form of (a) subsidised interest rates for loans under Section 3.3 of the Temporary Framework, (b) interest free loans under Section 3.1 of the Temporary Framework, and (c) direct grants under Section 3.1 of the Temporary Framework. The three elements of this scheme are described below.

2.7.1. Subsidised interest rates for loans under Section 3.3 of the Temporary Framework

- (18) The aid in the form of subsidised interest rates for loans is granted by the regional revolving Fund for interventions in the agricultural sector, established with law n. 80/1982 (the “Fund”). The loans are taken out with credit institutions that have stipulated an agreement with the Fund. The loans are repaid in six-monthly instalments with a fixed maturity on 1 July and 1 January.
- (19) The following conditions and features shall apply:
- a) the loans shall relate to investment and working capital needs;
 - b) the amount of a loan per undertaking does not exceed the liquidity needs for investment and working capital from the moment of granting for the coming 18 months for small and medium sized enterprises (“SME”)⁵ and for the

³ As defined in Article 2(14) of the 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 of 1.7.2014, p.1.

⁴ As defined in Article 3(5) of the 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 of 24 December 2014, p. 37.

⁵ As defined in Annex I of the Commission Regulation (EU) No 702/2014 and of the Commission Regulation (EU) No 1388/2014.

coming 12 months for large enterprises, based on self-certification by and with appropriate justification from the beneficiary. The submissions by the beneficiaries regarding the amount of the liquidity needs will be verified during the application procedure. The Italian authorities explained that the reason for using this calculation method lies in the fact that the large majority of undertakings of the sectors concerned, being individual or family-run undertakings, does not have wage bills, apply a simplified accounting and are not required to prepare financial statements;

- c) the loan contracts between the beneficiaries and the credit institutions are signed by 31 December 2020 at the latest and are limited to a maximum of eight years;
- d) 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 Commission⁶) applicable on 1 January 2020 plus a flat credit risk margin to be used for the entire duration of the loan, as set-out in the table below:

	<i>Duration of the loans in years</i>		
<i>Type of recipient</i>	<i>Flat credit risk margin for loans <3 years</i>	<i>Flat credit risk margin for loans ≥ 3 < 6 years</i>	<i>Flat credit risk margin for loans ≥ 6 ≤ 8 years</i>
<i>SMEs</i>	<i>50bps</i>	<i>100bps</i>	<i>250bps</i>
<i>Large enterprises</i>	<i>100bps</i>	<i>190bps</i>	<i>350bps</i>

- (20) The loan is channelled through credit institutions: the loan principal is made available either entirely by the Fund or partly by the Fund and partly by the credit institutions. The credit risk is in both cases entirely borne by the credit institutions which perform the assessment of the credit risk of the applicants. The beneficiaries reimburse the loan in instalments to the credit institutions which transfer then the loan principal plus the interest to the Fund. The Fund ensures that the advantage is passed on to the final beneficiaries by:
 - a) requiring the credit institutions that are channelling the loans to adhere to an agreement by which the Fund establishes the compulsory conditions for the loans that are best for the beneficiary undertakings;
 - b) recognizing to the credit institutions only the administrative cost of the management and evaluation of the application requests within the annual limit of 0,5% on the residual debt of the regional loan, which is according to the Italian authorities much lower than the market price;
 - c) examining the analysis report on the application request, with a view to verifying access conditions and assessing the amount to the loan to be granted;

⁶ 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.

- d) transferring the resources for the granting of the loan and verifying that the advantage is passed on, to the largest extent possible, to the final beneficiaries that are informed of the advantage when the loan is granted.

2.7.2. Interest free loans under Section 3.1 of the Temporary Framework

- (21) The aid in the form of subsidised interest rates for loans is granted through the Fund, with the intermediation of the credit institutions.
- (22) The loan contracts are signed no later than 31 December 2020 and the loan amount is limited to the following ceilings:
 - a) EUR 100 000 per undertaking active in the primary agricultural sector;
 - b) EUR 120 000 per undertaking active in the fishery and aquaculture sector;
 - c) EUR 800 000 per undertaking active in the forestry sector or in the processing and marketing of agricultural products.
- (23) Aid to undertakings active in the processing and marketing of agricultural products will not be partly or entirely passed on to primary producers nor will it be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by those undertakings.
- (24) Aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market.
- (25) Aid to undertakings active in the fishery and aquaculture sectors will not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014⁷.
- (26) The Fund ensures by means of separate accounts, in respect of beneficiaries who are active in several of the sectors concerned, that for each activity the relevant ceiling is respected and that the highest possible amount is not exceeded in total. Therefore, an undertaking active both in primary agricultural production and in processing/marketing of agricultural products or forestry will not receive more than EUR 800 000 in total and the part of the undertaking active in primary agricultural production no more than EUR 100 000 thereof. An undertaking active in primary agricultural production and in fishery/aquaculture will not receive more than EUR 120 000 in total and the part of the undertaking active in primary agricultural production no more than EUR 100 000 thereof. Finally, as the case may be, an undertaking active both in fishery/aquaculture and in the processing/marketing of agricultural products or forestry will not receive more than EUR 800 000 in total and the part of the undertaking active in fishery/aquaculture no more than EUR 120 000 thereof.

2.7.3. Grants under Section 3.1 of the Temporary Framework

- (27) The Region provides the undertakings that benefit from an interest rate subsidy on loans, as described in Section 2.7.1 above, with a grant equal to the present value of

⁷ 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).

the interests due. In any case the amount of the grant cannot exceed the following ceilings:

- a) EUR 100 000 per undertaking active in the primary production of agricultural products;
 - b) EUR 120 000 per undertaking active in the fishery and aquaculture sector;
 - c) EUR 800 000 per undertaking active in the forestry sector or in the processing and marketing of agricultural product.
- (28) The present value of the interests are calculated on a yearly basis on the amount of the residual debt of the loan, discounted to the date the loan is granted, using the discount rate calculated in accordance with the 2008 Communication from the Commission on the revision of the method for setting the reference and discount rates.
- (29) The same conditions as those described in recitals (23) to (26) apply.

2.8. Cumulation

- (30) The aid ceilings and cumulation maxima fixed under the scheme shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.
- (31) The Italian authorities confirmed that aid granted under section 3.2 of the Temporary Framework will not be cumulated with other aid granted for the same underlying loan principal under section 3.3 of the Temporary Framework, and vice versa.
- (32) The aid granted under Section 3.1 of the Temporary Framework (described in Points 2.7.2 and 2.7.3 above) may be cumulated with aid granted under Section 3.3.
- (33) Aid under this scheme may be cumulated with other compatible aid and *de minimis* aid, provided the cumulation rules under the different *de minimis* Regulations are respected, or with other forms of Union financing provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (34) In case aid under this scheme is cumulated with other aid granted under this scheme or under another scheme authorised under the Temporary Framework, by the same competent granting authority or by another one, the maximum aid amounts per beneficiary established in the Temporary Framework and/or the maximum ceilings on loans per beneficiary specified in paragraph 27(d) of the Temporary Framework will be respected for each undertaking.

2.9. Monitoring and reporting

- (35) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (e.g., by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid).

3. ASSESSMENT

3.1. Legality of the aid scheme

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

3.2. Existence of State aid

- (37) 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 scheme 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 scheme must distort or threaten to distort competition and affect trade between Member States.
- (38) The scheme is imputable to the State, since it is administered by the Friuli Venezia Giulia Region (recital (8)) and it is based on the acts mentioned in recital (7)). It is financed through State resources, since it is financed by public funds.
- (39) The scheme confers an advantage on its beneficiaries in the form of subsidised interest rates and direct grants (recital (6)). The scheme thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (40) The advantage granted by the scheme is selective, since it is awarded only to certain undertakings, in particular undertakings active in primary production of agricultural products, processing and marketing of agricultural products, forestry, fishery and aquaculture operating in the Friuli Venezia Giulia region (recital (14)).
- (41) The scheme is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (42) In view of the above, the Commission concludes that the scheme constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

- (43) Since the scheme involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that scheme is compatible with the internal market.
- (44) 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*”.
- (45) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, 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*”.

- (46) The scheme aims at facilitating the access of firms to external finance at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (47) The scheme is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the scheme to provide liquidity is widely accepted by economic commentators and the scheme is of a scale which can be reasonably anticipated to produce effects across the concerned sectors on the regional territory. Furthermore, the scheme has been designed to meet the requirements of two specific categories of aid “Aid in form of direct grants, repayable advances or tax advantages” described in Section 3.1 of the Temporary Framework and “Aid in the form of subsidised interest rates for loans” described in Section 3.3 of the Temporary Framework and the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.
- (48) The Commission accordingly considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular:
- (49) The elements of the notified scheme described in Points 2.7.2 and 2.7.3 above, meet all the applicable conditions provided for by Section 3.1 of the Temporary Framework:
- The aid will be granted in the form of direct grants or interest free loans (recital (17)), as laid down in paragraphs 22(a) and 23(a) of the Temporary Framework.
 - For undertakings active in the processing/marketing of agricultural products and forestry, the maximum aid amount per undertaking will not exceed the overall cap of EUR 800 000 (before deduction of tax or other charges) (recitals (22)c) and (27)c)), as laid down in paragraph 22(a) of the Temporary Framework.
 - For undertakings active in (i) the fishery and aquaculture sector, and (ii) the primary production of agricultural products, the maximum aid amount per undertaking does not exceed EUR 120 000 (recitals (22)b) and (27)b)) and EUR 100 000 (recitals (22)a) and (27)a)), respectively, as laid down in paragraph 23(a) of the Temporary Framework.
 - The estimated budget of the scheme is indicatively provided by Italy (recital (9)). Therefore, the condition of paragraph 22(b) of the Temporary Framework is met.
 - In compliance with paragraph 22(c) of the Temporary Framework, the aid will only be granted to undertakings that were not already in difficulty in the meaning of the ABER and FIBER on 31 December 2019 (recital (12)).
 - The aid will be granted no later than 31 December 2020 (recital (10)); hence the condition set out in paragraph 22(d) of the Temporary Framework is met.
 - As the aid is granted in the form of loans or grants to cover the value of the interest on loans (recital (17)), aid 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 (recitals (23) and (24)). Moreover, the Italian

authorities have confirmed that the aid granted to undertakings active in the processing and marketing of agricultural products will be conditional on not being partly or entirely passed on to primary producers (recital (23)). Hence, the condition set out in paragraphs 22(e) and 23 (b) of the Temporary Framework is met.

- 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 (recital (25)), as laid down in paragraph 23(c) of the Temporary Framework.
- The Italian authorities confirm that, where an undertaking is active in several sectors, to which different maximum amounts apply in accordance with paragraphs 22(a) and 23(a) of the Temporary Framework, they will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities, as laid down in paragraph 23bis of the Temporary Framework and that the highest possible amount is not exceeded in total (recital (26)).

(50) The elements of the notified scheme described in Point 2.7.1 above meet all the applicable conditions provided for by Sections 3.3 and 3.4 of the Temporary Framework:

- The applicable interest rates are equal to the base rate (1 year IBOR or equivalent as published by the Commission) applicable on 1 January 2020 plus an annual flat credit risk margin for the entire duration of the loan, as shown in recital (19)d). The annual flat credit risk margin under the scheme is higher than the minimum credit risk margin provided for in paragraph 25(a) of the Temporary Framework, for longer durations even considerably higher, and, therefore, complies with paragraph 27(b) of the Temporary Framework;
- The loan contracts are signed by 31 December 2020 at the latest, in compliance with paragraph 27(c) of the Temporary Framework. Regarding the duration of the loan, while paragraph 27(c) of the Temporary Framework only allows for loans with a duration of six years, paragraph 27(b) allows maturities beyond a six year period, provided that the longer duration is off-set by higher credit risk margins. The maximum duration of loans allowed under the scheme is eight years, (recital (19)c)). The scheme foresees a flat credit risk margin, as indicated in the table in recital (19)d), considerably higher than the credit risk margins allowed under paragraph 27(a). For example, for a 7 years loan to an SME, the credit risk margin will be of 250bps for the whole duration of the loan as opposed to 25bps for the first year, 50 bps for the second and third year and 100bps for the fourth to sixth year as indicated in the table in paragraph 27 (a) of the Temporary Framework. The scheme therefore complies with paragraph 27(c) of the Temporary Framework;
- For loans with a maturity beyond 31 December 2020, the maximum loan amount per beneficiary is limited in line with paragraph 27(d) of the Temporary Framework (recital (19)b)). The calculation of the maximum amount of the loan on the basis of the liquidity needs is justified for reasons of administrative simplicity given that many aid applicants do not have wage bills and apply simplified accounting.

- The loans relate to investment and working capital needs (recital (19)a)). The scheme therefore complies with paragraph 27(f) of the Temporary Framework;
- Firms in difficulty (situation as of 31 December 2019) within the meaning of ABER and FIBER are excluded from benefitting from the scheme (recital (12)). The scheme therefore complies with paragraph 27(g) of the Temporary Framework;
- The scheme introduces safeguards in relation to the possible indirect aid in favour of the credit institutions to limit undue distortions to competition, as described in recital (20). More specifically:
 - with regard to the financial intermediaries that channel the loans, the Commission takes into account the fact that only those accepting the compulsory conditions of the agreement required by the Fund can be authorised to operate the loans;
 - the credit risk is entirely borne by the credit institutions;
 - the remuneration for the administrative costs, is limited to a fix rate of 0,5% on the residual debt.

(51) The Italian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (35)).

(52) The applicable cumulation rules are respected (recitals (30) to (34)).

4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014

- (53) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (“BRRD”)⁸ and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (“SRMR”)⁹, in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified schemes do not appear to violate intrinsically linked provisions of the BRRD and of the SRMR.
- (54) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.¹⁰ Nevertheless, any such indirect aid granted under the scheme does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the scheme is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, aid granted under the scheme does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.

⁸ OJ L 173, 12.6.2014, p. 190-348.

⁹ OJ L 225, 30.7.2014, p. 1-90.

¹⁰ Paragraphs 6 and 29 of the Temporary Framework.

- (55) Moreover, as indicated in recital (20) above, the scheme introduces safeguards in relation to any possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantages provided by the scheme to the final beneficiaries. The measure therefore complies with points 28 to 31 of the Temporary Framework.
- (56) The Commission therefore concludes that the scheme does not violate any intrinsically linked provisions of the BRRD and of SRMR.

5. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) TFEU.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION