EUROPEAN COMMISSION

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PUBLIC VERSION

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Subject: **State Aid SA.56851 (2020/N) - Spain - Umbrella Scheme - National Temporary Framework for State aid in the form of direct grants, repayable advances, tax or payments advantages, guarantees on loans and subsidised interest rates for loans to support the economy in the current COVID outbreak.**

Excellency,

1. PROCEDURE

(1) By electronic notification of 27 March 2020, Spain notified aid in the form of guarantees on loans and subsidised interest rates (sections 4, 5 and 6 of the National Temporary Framework for State aid in the form of direct grants, repayable advances, tax or payments advantages, guarantees on loans and subsidised interest rates for loans to support the economy in the current COVID-19 outbreak[1] "the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework").[2]

(2) The Spanish authorities confirm that the notification does not contain confidential information.

[1] Original title: "Régimen marco nacional temporal relativo a las medidas de ayuda a empresas y autónomos destinadas a respaldar la economía en el contexto del actual brote de COVID-19."

[2] 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 911 , 20.3.2020, p. 1–9.*

Excma. Sr. D.ª Arancha González Laya
Ministra de Asuntos Exteriores y de Cooperación
Plaza de la Provincia 1
E-28012 MADRID

(3) Spain exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,[3] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(4) Spain considers that the COVID-19 outbreak has started to affect the real economy. Because of that outbreak, on 14 March 2020, Spain declared the State of emergency[4], leading to the restriction of movement and closure of undertakings in the entire country.

(5) The notified measure forms part of an overall package of measures enabled by the Royal Decree Law 8/2020 and aims to ensure that sufficient liquidity remains available in the market, to counter the damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak.

(6) By means of the notified measure, the Spanish authorities intend to enable the granting of aid by the General State Administration, the Administration of the Autonomous Communities , the entities integrating the Local Administration, and organisations and other public entities linked to or depending on any of the previous authorities ("the competent granting authorities") under the Temporary Framework.

(7) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union ("TFEU"), as interpreted by section 2 of the Temporary Framework.

2.1. The nature and form of aid

(8) The measure provides aid in the form of direct grants, repayable advances, tax or payments advantages, guarantees on loans and subsidised interest rates.

2.2. National legal basis

(9) The legal basis for the measure is the *Agreement of the National Government Commission for Economic Affairs of 26 March 2020 on a National Temporary Framework for State aid in the form of direct grants, repayable advances, tax or payments advantages, guarantees on loans and subsidised interest rates for loans to support the economy in the current COVID-19 outbreak.*

2.3. Administration of the measure

(10) The measure is an umbrella scheme under which the competent granting authorities, identified as the General State Administration, the Administration of the Autonomous Communities, the entities integrating the Local Administration,

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

[4] Real Decreto 463/2020, de 14 de marzo, por el que se declara el estado de alarma para la gestión de la situación de crisis sanitaria ocasionada por el COVID-19. https://www.boe.es/eli/es/rd/2020/03/14/463

and organisations and other public entities linked to or depending on any of the previous authorities, may grant aid.

2.4. Budget and duration of the measure

(11) The measure consists of several aid instruments. According to the Spanish authorities, it is difficult to estimate the budget for the scheme, as individual measures based on this umbrella scheme will be implemented on various administrative levels. The aid volume available under this scheme has therefore not yet been definitely adopted. However, for aid in the form of grants, repayable advances, payments advantages and tax advantages, the Spanish authorities provided a provisional budget estimation of approximately EUR 3.65 billion.

(12) Aid may be granted under the measure as from its approval by the European Commission until 31 December 2020. If the aid is granted in the form of tax advantages, this deadline does not apply and the aid will be considered granted at the time when the declaration of the taxes accrued in the period between 13 March 2020 and 31 December 2020 is due.

2.5. Beneficiaries

(13) According to Spain, the final beneficiaries of the measure are all undertakings (SMEs and large undertakings) and self-employed persons registered in Spain. Spain estimates more than 1,000 beneficiaries. The selection of beneficiaries will be the responsibility of the granting authorities at national, regional and local level. Aid may be granted under the measure only to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019. Aid can be granted under the measure either directly or through credit institutions and other financial institutions as financial intermediaries.

2.6. Sectoral and regional scope of the measure

(14) The measure is open to all sectors. It applies to the whole territory of Spain. However, credit institutions[5] are excluded as eligible final beneficiaries.

2.7. Basic elements of the measure

2.7.1. Aid in the form of direct grants, repayable advances and tax or payments advantages

(15) Aid under the scheme will be granted up to an amount of EUR 800,000 per undertaking or self-employed person in the form of direct grants, repayable advances and tax or payments advantages.

(16) The aid granted to undertakings or self-employed persons active in the processing and marketing of agricultural products will be 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 and self-employed persons concerned.

[5] Banks and any other financial entities supervised by the competent authority

(17) The aid will be limited to EUR 120,000 per undertaking or self-employed person active in the fishery and aquaculture sector or EUR 100,000 per undertaking or self-employed person active in the primary production of agricultural products.

(18) Aid to undertakings and self-employed persons 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.

(19) Aid to undertakings active in the fishery and aquaculture sectors 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].

(20) Where an undertaking or self-employed is active in several sectors, to which different maximum amounts apply, it shall be ensured, 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.

(21) All figures used are gross, that is, before any deduction of tax or other charge.

2.7.2. Aid in the form of guarantees on loans

(22) The eligible instruments will meet the following conditions:

(a) They can be either a refinancing operation or a new loan.

(b) They may relate to both investment and working capital loans.

(c) The amount of the loan will comply with one of the following alternative conditions:

– It will not surpass the double of the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertakings 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

– It will not surpass 25% of total turnover of the beneficiary in 2019; or

– With appropriate justification and based on a self-certification by the beneficiary of its liquidity needs, 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.

(d) For loans with a maturity until 31 December 2020, the amount of the loan principal may be higher than specified in point (c) of the present recital, with appropriate justification and provided that proportionality remains assured.

(e) The maximum maturity of the loan is six years.

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.

(f) the cost for the final beneficiary of the loans will be in line with the levels previous to the COVID-19 outbreak, taking into account the risk level for the financial intermediary given the public guarantee provided.

(23) The guarantee will fulfil the following conditions:

(a) The guarantee can be granted until 31 December 2020.

(b) As a general rule, the guarantee will be as follows:

– It will have a maximum duration of six years

– The coverage of the guarantee will 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 decrease proportionally;

– The guarantee fees are progressive in time and step up each year for the outstanding amount until the final maturity of the underlying credit operation in order to incentivise early repayment.

– The guarantee premia will be set at a minimum level as follows:

Beneficiary	1st year	2nd and 3rd year	4th to 6th year
SMEs	25 bps	50 bps	100 bps
Large enterprises	50 bps	100 bps	200 bps

(c) As an alternative to point (b) of this recital, the competent granting authorities may replicate the characteristics of the guarantee – duration, coverage and guarantee premia - as authorised in Decision S.A. 56803 (2020/N)[7]. If this is the case, the guarantee will meet the following conditions:

– The maximum duration of the guarantee will be 5 years.

– The guarantee may cover as a maximum:

i. For self-employed and SMEs, up to 80% of the underlying loan principal, be it a new loan or a refinancing operation.

[7] Decision S.A. 56803 (2020/N)– Spain COVID-19 - Guarantee scheme to companies and self-employed to support the economy in the current COVID-19. outbreak. https://ec.europa.eu/competition/state_aid/cases1/202013/285233_2142736_57_2.pdf

ii. For large undertakings, up to 70% of the underlying loan if it is a new loan and 60% for refinancing operations.

– When the size of the loan decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount has to decrease proportionally.

– Losses are sustained proportionally and under the same conditions by the financial intermediary and the competent granting authority.

– The guarantee fees are progressive in time and step up each year for the outstanding amount.

– Minimum premia are set as follows:

Beneficiary	Instrument	1st year	2nd and 3rd year	4th and 5th year	Guarantee coverage
SMEs and self employed	New loans and Refinancing operations	20 bps	30 bps	80 bps	80%
Large enterprises	New loans	30 bps	60 bps	120 bps	70%
Large enterprises	Refinancing operations	25 bps	50 bps	100 bps	60%

(d) The Spanish authorities have also confirmed that the mobilisation of the guarantees is contractually linked to specific conditions, which are agreed between the parties when the guarantee is initially granted.

(24) The Spanish authorities confirm that they will apply] a mechanism that ensures that credit institutions pass on the advantages of the public guarantee to the final beneficiaries to the largest extent possible. To that aim, under every scheme approved under the national framework agreement, the competent granting authority shall:

(a) Give access to the measure to all financial intermediaries, thus enabling competition between them.

(b) Set up a mechanism ensuring that the advantage of the guarantee is passed on to the largest extent possible to the final beneficiary. In particular, for refinancing loans, the schemes approved under the national framework agreement shall require that the financial intermediaries provide to the granting authority the reporting of all transactions with the final beneficiaries, with indication of the interest rate that the institution would have applied without the guarantee and the interest rate applied.

2.7.3. Aid in the form of loans with subsidised rates

(25) The loan may relate to both investment and working capital needs.

(26) The loan can be either a new loan or a refinancing operation.

(27) The loan contracts will be signed by 31 December 2020 at the latest and are limited to maximum 6 years.

(28) For loans with a maturity beyond 31 December 2020, the amount of the loan does not exceed:

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

– 25% of the total turnover of the beneficiary in 2019;

– with appropriate justification and based on self-certification by the beneficiary of its liquidity needs , 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.

(29) For loans with a maturity until 31 December 2020, the amount of the loan principal may be higher than under recital (28) with appropriate justification and provided that proportionality of the aid remains assured.

(30) 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) applicable on 1 January 2020 plus the credit risk margins as set-out in the table below:

Beneficiary	Credit risk margin for a 1-year maturity loan	Credit risk margin for a 2-3 years maturity loan	Credit risk margin for a 4-6 years maturity loan
SMEs	25 bps[8]	50 bps[9]	100 bps
Large enterprises	50 bps	100 bps	200 bps

(31) The cost for the final beneficiary of the loans will be in line with the levels previous to the COVID-19 outbreak, taking into account the risk level for the financial intermediary given the public guarantee provided.

(32) The Spanish authorities confirm that they will apply a mechanism that ensures that credit institutions pass on the advantages of the subsidised interest rates to the final beneficiaries to the largest extent possible. To that aim, under every scheme approved under the national framework agreement, the competent granting authority shall:

(a) Give access to the measure to all financial intermediaries, thus enabling competition between them.

(b) Set up a mechanism ensuring that the advantage of the interest rate subsidy is passed on to the largest extent possible to the final beneficiary.

[8] The minimum all in interest rate (base rate plus the credit risk margins) should be at least 10 bps per year.

[9] The minimum all in interest rate (base rate plus the credit risk margins) should be at least 10 bps per year.

In particular, for refinancing loans, the schemes approved under the national framework agreement shall require that the financial intermediaries provide to the granting authority the reporting of all transactions with the final beneficiaries, with indication of the interest rate that the institution would have applied without the subsidy and the interest rate applied.

2.8. Cumulation

(33) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.

(34) The Spanish authorities confirm that aid granted under section 3.2 of the Temporary Framework will be not to cumulated with other aid granted for the same underlying loan principal under section 3.3 of the Temporary Framework, and vice versa. Aid under section 3.1 of the Temporary Framework may be cumulated with either aid under section 3.2 or section 3.3.

(35) Aid under this measure may be cumulated with other compatible aid, 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 Block Exemptions Regulations are respected.

(36) In case aid under this measure is cumulated with other aid granted under this measure or under another measure authorised under the Temporary Framework by the same competent granting authority or by another one, the maximum aid amounts established in the Temporary Framework will be respected.

2.9. Monitoring and reporting

(37) The Spanish 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, etc.).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(39) 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.

(40) The measure is imputable to the State, since it is administered by the competent granting authorities and it is based on a legislative act (recital (9)). It is financed through State resources, since it is financed by public funds (recital (10)).

(41) The measure confers an advantage on its beneficiaries in the form of direct grants, repayable advances, tax or payments advantages, guarantees on loans and subsidised interest rates (recital (10)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(42) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular SMEs, large undertakings and self-employed persons registered in Spain. It applies to all sectors of activity, however, credit institutions are excluded as eligible final beneficiaries (recital (13)). Furthermore, the granting authorities at national, regional and local level will be in charge for the selection of the beneficiaries.

(43) The measure 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.

(44) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Spanish authorities do not contest that conclusion.

3.3. Compatibility

(45) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(46) 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*".

(47) 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*".

(48) Because of the pandemic and because of governmental measures taken in Spain[10] and in other countries, many undertakings in Spain are facing and will face difficulties to continue their activities due to loss of income and loss of liquidity. This might undermine their viability.

[10] Restriction of movements and closure of establishments after the COVID-19 related declaration of the State of alarm on 14 March 2020, see recital (4).

(49) The measure aims at *providing liquidity support to SMEs, large enterprises and self-employed persons* and at *facilitating the access of SMEs and large enterprises 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.

(50) The measure is one of a series of measures conceived at national level by the Spanish authorities to remedy a serious disturbance in their economy. The importance of the measure to *stimulate lending by private banks to enterprises during the COVID-19 outbreak* is widely accepted by economic commentators and the measure is of a scale that can be reasonably anticipated to produce effects across the entire Spanish economy. Furthermore, the measure has been designed to meet the requirements of the specific categories of "*Aid in the form of direct grants, repayable advances and tax or payments advantages"* (section 3.1. of the Temporary Framework), "*Aid in the form of guarantees on loans*" (section ection 3.2 of the Temporary Framework) and "*Aid in the form of subsidised interest rates for loans"* (section 3.3 of the Temporary Framework), as well as 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.

(51) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

(52) The notified measure meets all the conditions provided for by the Temporary Framework for "temporary limited amounts of aid", as described in section 2.7.1 above:

- The aid will be granted in form of direct grants, repayable advances and tax or payment advantages as laid down in paragraph 22(a) Temporary Framework.

- The maximum aid amount per undertaking in the notified scheme (EUR 800,000) will not exceed the cash equivalent of EUR 800,000 as laid down in paragraph 22(a) Temporary Framework.

- The estimated budget of the scheme is indicatively provided by Spain. Therefore, the condition of paragraph 22(b) Temporary Framework is considered to be met.

- In compliance with paragraph 22(c) Temporary Framework, the aid will only be granted to undertakings which were not in difficulty on 31 December 2019.

- The aid will be granted no later than 31 December 2020; if the aid is granted in the form of tax advantages, the aid is considered granted when the 2020 tax declaration is due; hence the condition set out in paragraph 22(d) Temporary Framework is met.

- 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 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. Hence, the condition set out in paragraph 22(e) Temporary Framework is met.

- The maximum aid amount per undertaking does not exceed EUR 120,000 per undertaking active in the fishery and aquaculture sector or EUR 100,000 per undertaking active in the primary production of agricultural products, as laid down in paragraph 23(a) Temporary Framework.

- 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, as laid down in paragraph 23(b) Temporary Framework.

- 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, as laid down in paragraph 23(c) Temporary Framework.

- Where an undertaking is active in several sectors, to which different maximum amounts apply, it shall be ensured, 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, as laid down in paragraph 23(d) of the Temporary Framework.

- The Spanish authorities committed to comply with all the monitoring and reporting provisions laid down in section 4 of the Temporary Framework. 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.

- In line with paragraph 20 of the Temporary Framework, the above-mentioned aid granted under section 3.1 of the latter may be cumulated with either aid under section 3.2 or section 3.3.

(53) For guarantees on loans as described in section 2.7.2 above*:*

- Guarantees can be granted under the measure by 31 December 2020 at the latest (recital (11)). The measure therefore complies with point 25(c) of the Temporary Framework.

- Guarantees granted under the measure relate to investment and working capital loans (recital (22)(b)). The measure therefore complies with point 25(g) of the Temporary Framework.

- For loans with a maturity beyond 31 December 2020, the maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 25(d) of the Temporary Framework (recital (22)(c)). For loans with a maturity until 31 December 2020, the higher amount of the loan principal is justified appropriately and the proportionality of the aid remains assured (recital (22)(d)) in line with point 25(e) of the Temporary Framework .

- According to the general rule as described in recital (23)(b):
  - The measure sets minimum levels for guarantee premiums of 25 bps for SMEs and 50 bps for large enterprises on loans with a maturity of 6 years. It therefore complies with the guidance in point 25 (a) of the Temporary Framework.
  - The measure limits the duration of the guarantees to maximum 6 years. Those guarantees may either cover up to 90% of the loan principal where losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State or up to 35% if they are first attributed to the State and only then to the credit institutions (*i.e.* a first-loss guarantee). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally. The measure therefore complies with point 25(f) of the Temporary Framework.
- As an alternative to the general rule established in recital (23)(b), the competent granting authorities may decide to apply the combination of conditions – duration, coverage and premia - fixed in recital (23)(c). These conditions replicate those already authorised in Decision SA.56803 (2020/N) as compliant with points 25(b) and 25(f) of the Temporary Framework and can thus be considered to also comply with them.
- The mobilisation of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted.
- Firms in difficulty (situation as of 31 December 2019) within the meaning of the applicable sectoral block exemption regulations are excluded from benefitting from the measure (recital (13)). The measure therefore complies with point 25(h) of the Temporary Framework.
- The measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (24)). In particular, the Commission takes into account that all commercial banks have access to the scheme, creating competition among banks. The Commission assesses positively the obligation that costs applied by the banks will have to be in line with those applied before the beginning of the COVID-19 outbreak. Finally, as regards refinancing loans, the granting authorities will ensure the obligation for the financial intermediaries to report the amount of aid that is passed-on to the final beneficiaries. The measure therefore complies with points 21 to 31 of the Temporary Framework.
- The Spanish authorities have confirmed that they will respect the monitoring and reporting rules laid down in section 4 of the Temporary Framework (recital (37)).
- The applicable cumulation rules are respected (recitals (33) to (35)).

(54) For subsidised interest rates as described in section 2.7.3 above:

- The applicable interest rates are equal to the base rate (1-year IBOR or equivalent as published by the Commission)[11] applicable on 1 January 2020 plus a minimum credit margin of 25 basis points for SMEs, and 50 basis points for large enterprises (recital (30)). The measure therefore complies with point 27(a) of the Temporary Framework.

- The loan contracts are signed by 31 December 2020 at the latest and are limited to maximum 6 years (recital (27)). The measure therefore complies with point 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 point 27(d) of the Temporary Framework (recital (28)). For loans with a maturity until 31 December 2020, any higher amount of the loan principal is justified appropriately and the proportionality of the aid remains assured in line with point 27(e) of the Temporary Framework (recital (29)).

- The loans relate to investment and working capital needs (recital (25)). The measure therefore complies with point 27(f) of the Temporary Framework.

- Firms in difficulty (situation as of 31 December 2019) within the meaning of the applicable sectoral block exemption regulations are excluded from benefitting from the measure (recital (13)). The measure therefore complies with point 27(g) of the Temporary Framework.

- The measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (32)). In particular, the Commission takes into account that all commercial banks have access to the scheme, creating competition among banks. The Commission assesses positively the obligation that costs applied by the banks will have to be in line with those applied before the beginning of the COVID-19 outbreak. Finally, as regards refinancing loans, the granting authorities will ensure the obligation for the financial intermediaries to report the amount of aid that is passed on to the final beneficiaries. The measure therefore complies with points 28 to 31 of the Temporary Framework.

- The Spanish authorities have confirmed that they will respect the monitoring and reporting rules laid down in section 4 of the Temporary Framework (recital (37)).

- The applicable cumulation rules are respected (recitals (33) to (35)).

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[11] 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).

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

(55) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"BRRD"**)[12] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (**"SRMR"**),[13] 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 measures do not appear to violate intrinsically linked provisions of BRRD and of SRMR.

(56) 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.[14] Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure 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 measure does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.

(57) Moreover, as indicated in recitals (53) and (54) above, the measure 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 measure to the final beneficiaries.

(58) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD and of SRMR.

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[12] OJ L 173, 12.6.2014, p. 190-348.

[13] OJ L 225, 30.7.2014, p. 1-90.

[14] Points 6 and 29 of the Temporary Framework.

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) of the Treaty on the Functioning of the European Union.

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