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**Subject: State Aid SA.56981 (2020/N) – Austria
Austrian guarantee scheme on bridge loans under 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 31 March 2020, Austria notified a package of measures in the form of *direct grants, repayable advances or tax advantages, guarantees on loans, and subsidised interest rates (Hilfsmaßnahmen für die Wirtschaft in Österreich)* under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).¹ The package was initially registered under SA.56840 (2020/N) and then split into two components: “SA.56840 (2020/N) - COVID-19 - Austrian liquidity scheme” and “SA.56981 (2020/N) - COVID-19 – Austrian scheme for guarantees on bridge loans” (“the measure”).
- (2) By electronic communications of 7 April 2020, 10 April 2020, 14 April 2020 and 15 April 2020, Austria submitted additional information to complete the notification of the measure.
- (3) The Austrian authorities confirm that the notification does not contain confidential information.
- (4) Austria exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak as adopted on 19 March 2020 (C(2020) 1863) and its amendment (C(2020) 2215) as adopted on 3 April 2020.

Seiner Exzellenz Herrn Alexander Schallenberg
Bundesministerium für Europäische und internationale Angelegenheiten
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Article 3 of Regulation 1/1958,² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (5) Austria considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures 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) The measure consists of two parts:
- (a) Part 1: the Austria Wirtschaftsservice GmbH (“aws”) – guarantee scheme for small and medium-sized enterprises (“SMEs”) active in all sectors;
 - (b) Part 2: the Austrian Hotel and Tourism Bank G.m.b.H. (*Österreichische Hotel- und Tourismusbank GmbH*, “ÖHT”) – guarantee scheme for SMEs active in the tourism and leisure time sector.
- (7) The measure 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

- (8) The measure consists of two parts designed by the Austrian Federal Ministry of Finance, the Austrian Federal Ministry for Digital and Economic Affairs, and the Austrian Federal Ministry of Agriculture, Regions and Tourism. It provides aid in the form of guarantees.

2.2. National legal basis

- (9) The Austrian framework legislation forming the basis for the measure comprises:
- (a) Änderung KMU-Förderungsgesetz; Krisenbewältigungsfonds, BGBl. I Nr. 12/2020 vom 15.03.2020 - COVID-19 Gesetz³
 - (b) Änderung KMU-Förderungsgesetz; BGBl. I Nr. 16/2020 vom 21.03.2020 - 2. COVID-19-Gesetz⁴
 - (c) Änderung Garantiesgesetz 1977 und KMU-Förderungsgesetz; BGBl. I Nr. 23/2020 vom 04.04.2020 – 3. COVID-19-Gesetz⁵
- (10) The implementing regulations for Part 1 of the measure are:
- (a) Bundesgesetz über besondere Förderungen von kleinen und mittleren Unternehmen (KMU-Förderungsgesetz) - Fassung vom 4. April 2020⁶

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

³ <https://www.ris.bka.gv.at/eli/bgbl/I/2020/12/20200315>

⁴ <https://www.ris.bka.gv.at/eli/bgbl/I/2020/16/20200321>

⁵ <https://www.ris.bka.gv.at/eli/bgbl/I/2020/23/20200404>

- (b) Increase of the liability framework to an indicative amount of EUR 2 billion by:
- Änderung des KMU-Förderungsgesetzes (§ 7 Abs. 2a), BGBl. I Nr. 16/2020⁷, und
 - Verordnung des Bundesministers für Finanzen zur Festlegung des Haftungsrahmens zur Bewältigung der Krisensituation aufgrund von COVID-19 für das KMU-Förderungsgesetz (KMU-Förderungsgesetz COVID-19-HaftungsrahmenV)⁸
- (c) Richtlinie des Bundesministeriums für Digitalisierung und Wirtschaftsstandort für Garantieübernahmen der Austria Wirtschaftsservice GmbH gem. KMU-Förderungsgesetz (aws-Garantierichtlinie gem. KMU-Förderungsgesetz) - in der Fassung vom 10. April 2020⁹
- (d) Bundesgesetz vom 12. Mai 1977 betreffend die Erleichterung der Finanzierung von Unternehmungen durch Garantien der Austria Wirtschaftsservice Gesellschaft mit beschränkter Haftung mit Haftungen des Bundes (Garantiegesetz 1977) – Fassung vom 4. April 2020¹⁰
- (e) Increase the liability framework to an indicative amount of EUR 2 billion by:
- Änderung des Garantiegesetz 1977 (§ 1 Abs. 2a), BGBl. I Nr. 23/2020¹¹, und
 - Verordnung des Bundesministers für Finanzen zur Festlegung des Haftungsrahmens zur Bewältigung der Krisensituation aufgrund von COVID-19 für das Garantiegesetz 1977 (Garantiegesetz 1977 COVID-19-HaftungsrahmenV)
- (f) Richtlinie des Bundesministeriums für Finanzen für Garantieübernahmen der Austria Wirtschaftsservice GmbH gem. Garantiegesetz 1977 (aws-Garantierichtlinie gem. Garantiegesetz 1977) - Fassung vom 10. April 2020¹²
- (11) The implementing regulations for Part 2 of the measure are:
- (a) Bundesgesetz über besondere Förderungen von kleinen und mittleren Unternehmen (KMU-Förderungsgesetz) - Fassung vom 4. April 2020

⁶ <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10007820>

⁷ <https://www.ris.bka.gv.at/eli/bgbl/I/2020/16/20200321>

⁸ <https://www.ris.bka.gv.at/eli/bgbl/II/2020/123/20200327>

⁹ not yet published

¹⁰ <https://www.ris.bka.gv.at/eli/bgbl/II/2020/135/20200407>

¹¹ <https://www.ris.bka.gv.at/eli/bgbl/II/2020/135/20200407>

¹² https://www.aws.at/fileadmin/user_upload/Downloads/Richtlinie/ab_2020_04_Garantien_KMU-FG-RL.pdf

- (b) Increase the liability framework to an indicative amount of EUR 1 billion by:
- Änderung des KMU-Förderungsgesetzes (§ 7 Abs. 2a), BGBl. I Nr. 16/2020, und
 - Verordnung des Bundesministers für Finanzen zur Festlegung des Haftungsrahmens zur Bewältigung der Krisensituation aufgrund von COVID-19 für das KMU-Förderungsgesetz (KMU-Förderungsgesetz COVID-19-HaftungsrahmenV)
- (c) Richtlinie der Bundesministerin für Landwirtschaft, Regionen und Tourismus für die Übernahme von Haftungen für die Tourismus- und Freizeitwirtschaft 2014-2020 - Fassung vom 14. April 2020¹³

2.3. Administration of the measure

- (12) The Austria Wirtschaftsservice GmbH (“aws”) is responsible for administering Part 1 of the measure.
- (13) The Austrian Hotel and Tourism Bank GmbH (*Österreichische Hotel- und Tourismusbank GmbH*, “ÖHT”) is responsible for administering Part 2 of the measure.

2.4. Budget and duration of the measure

- (14) The Austrian authorities confirm that no more than EUR 9 billion in guarantees will be granted under the measure.
- (15) Aid may be granted under the measure until 31 December 2020 in accordance with the *KMU-Förderungsgesetz* and the *Garantiegesetz* respectively. Austria confirms that aid will not be approved under the measure after 31 December 2020.

2.5. Beneficiaries

- (16) The final eligible beneficiaries of the measure are SMEs registered or active in Austria.¹⁴ Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”), the Agricultural Block Exemption Regulation (“ABER”) or the Fisheries Block Exemption Regulation (“FIBER”)¹⁵ on 31 December 2019.

¹³ not yet published

¹⁴ As defined in Annex I to 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.

¹⁵ 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 of 26.6.2014, p. 1, 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 of 1.7.2014, p.1, and 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

- (17) Eligible beneficiaries are SMEs active in all sectors. Guarantees for SMEs active in the tourism and leisure sector will be granted mainly by the ÖHT. The beneficiary must have been active in the tourism and leisure sector before the outbreak of the COVID-19 crisis (a deadline of 11 March 2020 will apply).

2.6. Regional scope of the measure

- (18) The measure applies to the whole territory of Austria.

2.7. Basic elements of the measure

- (19) ‘Temporary limited amounts of aid’ in the form of guarantees covering 100% of the underlying loan principal may be granted under the measure under the following conditions:
- (a) the total nominal value of the guaranteed loans may not exceed EUR 500 000 per undertaking; by way of derogation, the total nominal value of the guaranteed loans may not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector¹⁶ or EUR 100 000 per undertaking active in the primary production of agricultural products¹⁷;
 - (b) the aid is granted on the basis of a scheme with an estimated budget; Austria estimated the budget for ‘temporary limited amounts of aid’ at EUR 1.875 billion. Austria indicated that the impact of the COVID-crisis is still difficult to quantify, and that in particular the demand for ‘temporary limited amounts of aid’ is difficult to estimate. If the actual demand for aid is less than the estimated budget, the unused amounts will be shifted to the part of the measure under Section 3.2 of the Temporary Framework.
 - (c) the aid granted to undertakings active in the processing and marketing of agricultural products¹⁸ is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned;
 - (d) where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Austria will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities;

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.

¹⁶ 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.

¹⁷ All products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector.

¹⁸ As defined in Article 2(6) and Article 2(7) of Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1.

- (e) aid to undertakings active in the fishery and aquaculture shall not concern any of the categories of aid referred to in Article 1, paragraph (1), (a) to (k), of Commission Regulation (EU) No 717/2014¹⁹;
 - (f) the aid shall be granted no later than 31 December 2020;
 - (g) the maximum interest rate ceiling for underlying loans is fixed to the 3-month Euribor plus 75 basis points, capped at 0 % per annum for the first two years. The warranty period is limited to max. 5 years, start of amortisation will not be before 1 January 2021.
 - (h) The guarantees covering 100% of the underlying loan principal of up to EUR 500 000 per undertaking (described in this recital) may be cumulated with guarantees covering 90% of the underlying loan principal above EUR 500 000 (as described under recital (20) below).
- (20) Aid in the form of guarantees on loans may be granted under the measure under the following conditions:
- (a) The measure shall provide guarantees only for new working capital loans. Guarantees may also be provided on working capital loans contracted as of 16 March 2020. Finally, SMEs will have the possibility to defer instalments on existing working capital loans. This deferment will constitute a new loan with the nominal amount corresponding to the deferred instalment.
 - (b) For loans with a maturity beyond 31 December 2020, the overall amount of loans per beneficiary shall not exceed:
 - 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
 - 25% of the beneficiary's total turnover in 2019; or
 - where justified by reasons of administrative simplicity in cases where the situation of the beneficiary requires a fast guarantee approval process, 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. The liquidity needs will be determined based on self-certification by the beneficiary.
 - (c) For loans with a maturity until 31 December 2020 and where justified by reasons of administrative simplicity in situations where the situation of the beneficiary requires a fast guarantee approval process, the amount of the loan principal may be higher than described above under point (b). In such cases, Austria submits that the level of financial measures provided for

¹⁹ 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.

under the scheme is always based on the company's liquidity needs. The actual liquidity needs must be presented in the application and supported with reasons and plausibility checks. The actual amount of the financial measure is therefore always limited, taking into account the maximum amounts defined by the Commission. In other words, if the financial measure ends on 31 December 2020, it can never be higher than the liquidity needs for the period between the granting of the guarantee and that date. Austria will therefore not grant financial assistance that is higher than the justified liquidity needs of the company for this period.

- (d) 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. Specifically, the amount of the guarantee premium will be determined by the duration of the guarantee.

<i>Type of recipient</i>	<i>For 1st year</i>	<i>For 2nd-3rd year</i>	<i>For 4th-6th years</i>
<i>SMEs</i>	<i>25bps</i>	<i>50bps</i>	<i>100bps</i>

- (e) The Austrian authorities confirm that guarantees will be granted by 31 December 2020 at the latest.
- (f) The duration of the guarantee is limited to maximum five years.
- (g) The guarantee coverage will be limited to 90% of the loan amount.
- (h) Losses under the guarantee are sustained proportionally and under the same conditions by the financial intermediary and the administrating body (recitals (12) and (13)). If the size of the loan decreases, then the value of the guarantee will decrease proportionally, such that the proportion of the loan guaranteed will remain at the same proportion.
- (i) Austria confirms that the mobilisation of the guarantee is contractually linked to specific conditions which have to be agreed between the parties when the guarantee is initially granted.
- (j) The measure will introduce certain safeguards in relation to the possible indirect aid in favour of financial intermediaries. Financial intermediaries will, to the largest extent possible, pass on the advantages of the public guarantee to the final beneficiaries. More specifically, all financial intermediaries active in Austria are eligible under the measure for guarantees, which ensures competition between financial intermediaries and enables final beneficiaries to compare different offers by different financial intermediaries. For the underlying loans, the financial intermediaries are required to set the interest rate at max. 1% per annum. For those working capital loans already contracted as of 16 March 2020, these interest rate provisions will also apply from the moment the guarantee is provided.

2.8. Cumulation

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

- (22) The Austrian authorities will ensure that cumulation conditions are respected across all Austrian measures under the Temporary Framework and across all granting authorities.²⁰ Notably, in so far as one and the same beneficiary may benefit from multiple measures under the Temporary Framework in parallel, the Austrian authorities confirm that it is ensured that the maximum thresholds concerning overall amount of loans per beneficiary as specified in points 25(d) and 27(d) of the Temporary Framework are respected. Finally, the Austrian authorities confirmed that different forms of aid under Section 3.1 of the Temporary Framework can be cumulated as long as they do not exceed a total of EUR 800 000.

2.9. Monitoring and reporting

- (23) The Austrian 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

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

3.2. Existence of State aid

- (25) 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.
- (26) The measure is imputable to the State, since it is administered by state agencies (recitals (12) and (13)) and it is based on the legislative acts described in recitals (9)– (11). It is financed through State resources, since it is financed from the Federal Budget.
- (27) The measure confers an advantage on its beneficiaries in the form of guarantees (recital (8)). The measure thus relieves those beneficiaries of costs which they would have to bear under normal market conditions.
- (28) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular SMEs active in Austria and SMEs active in the tourism and leisure time sector in Austria that were not already in difficulty on 31 December 2019 as described in recitals (16) – (17).

²⁰ Commission Decision SA.56840 (2020/N) of 8 April 2020.

- (29) 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.
- (30) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Austrian authorities do not contest that conclusion.

3.3. Compatibility

- (31) 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.
- (32) 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*”.
- (33) 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*”.
- (34) The measure 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.
- (35) The measure is one of a series of measures conceived at national level by the Austrian 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 and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Austrian economy. Furthermore, the measure has been designed to meet the requirements of each specific category of aid described in Section 3.1 to 3.2 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.
- (36) 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:

For ‘temporary limited amounts of aid’:

- (37) As regards the part of the measure covering temporary limited amounts of aid, the measure meets all the conditions laid down in Section 3.1 of the Temporary Framework. In particular:

- (a) Aid will be granted in form of guarantees on loans as laid down in point 22(a) of the Temporary Framework.
- (b) The maximum underlying guaranteed loan amount per undertaking (EUR 500 000) shall not exceed the cash equivalent of EUR 800 000 as laid down in point 22(a) of the Temporary Framework.
- (c) Austria has estimated the budget of this part of the measure at EUR 1.875 billion. The measure therefore complies with point 22(b) of the Temporary Framework.
- (d) Aid will only be granted to undertakings which were not already in difficulty on 31 December 2019. The measure therefore complies with point 22(c) of the Temporary Framework.
- (e) Aid will be granted no later than 31 December 2020. The measure therefore complies with point 22(d) of the Temporary Framework.
- (f) Undertakings active in the processing and marketing of agricultural products are excluded from the measure where the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on market by such producers. The measure therefore complies with point 22(e) of the Temporary Framework.
- (g) The maximum underlying guaranteed loan amount per undertaking shall 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. The measure therefore complies with point 23(a) of the Temporary Framework.
- (h) 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. The measure therefore complies with point 23(b) of the Temporary Framework.
- (i) Aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, point (1), (a) to (k), of Commission Regulation (EU) No 717/2014. The measure therefore complies with point 23(c) of the Temporary Framework.
- (j) Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Austria will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of these activities.
- (k) The financial intermediaries are requested to cap the interest rate of the underlying loan to 3-month Euribor plus 75 basis points, capped at 0 % per annum for the first two years. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. The measure therefore complies with Section 3.4 of the Temporary Framework.

For guarantees on loans:

- (38) As regards the part of the measure covering guarantees on loans, the measure notified by Austria meets all the conditions provided for by Section 3.2 of the Temporary Framework. In particular:
- (a) The measure sets minimum levels for guarantee premiums, applied progressively from 25 to 100 basis points for loans to SMEs (recital (20)(d)). It therefore complies with the guidance in point 25(a) of the Temporary Framework.
 - (b) Guarantees may be granted under the measure until 31 December 2020 at the latest (recital (20)(e)). The measure therefore complies with point 25(c) of the Temporary Framework.
 - (c) 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 (20)(b)). Where the loan amount is determined by 25(d)(iii) of the Temporary Framework, the higher amount of the loan principal is appropriately justified with reasons of administrative efficiency in circumstances of urgency. This justification is also appropriate for loans with a maturity until 31 December 2020. In that case, the proportionality of the aid remains assured (recital (20)(c)) in line with point 25(e) of the Temporary Framework, since it includes a maximum threshold that is linked to the beneficiary's declared liquidity needs, which will be verified during the application.
 - (d) The measure limits the duration of the guarantees to maximum 5 years (recital (20)(f)). Those guarantees shall cover a maximum of 90 % of the loan principal and losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State (recitals (20)(g) and (20)(h)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (20)(h)). The measure therefore complies with point 25(f) of the Temporary Framework.
 - (e) Guarantees granted under the measure relate to working capital loans (recital (20)(a)). The measure therefore complies with point 25(g) of the Temporary Framework.
 - (f) Firms already in difficulty on 31 December 2019 within the meaning of the GBER, ABER or FIBER are excluded from benefitting from the measure (recital (16)). The measure therefore complies with point 25(h) of the Temporary Framework.
 - (g) 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. The Commission takes note that all financial intermediaries active in Austria are eligible under the scheme for guarantees, which ensures competition between financial intermediaries and enables final beneficiaries to compare different offers by different financial intermediaries. Furthermore, the Commission takes into account that the

financial intermediaries are requested to cap the interest rate of the underlying loan at max. 1 % per annum. This cap also applies to those working capital loans that have already been contracted as of 16 March 2020 from the moment the guarantee will be provided. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (20)(j)). The measure therefore complies with Section 3.4 of the Temporary Framework

- (h) The Austrian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (23)).
- (i) The applicable cumulation rules are respected (recital (21) and (22)).
- (j) 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 (recital (20)(i)).

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

- (39) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (“BRRD”)²¹ and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (“SRMR”),²² 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.
- (40) 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.²³ 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.
- (41) Moreover, as indicated in recital (26)(j) 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.

²¹ OJ L 173, 12.6.2014, p. 190-348.

²² OJ L 225, 30.7.2014, p. 1-90.

²³ Points 6 and 29 of the Temporary Framework.

(42) The Commission therefore concludes that the measure 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) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President