

COMPETITION AND REGULATED MARKETS

COVID-19: Practical Considerations: European Commission Adopts Temporary State Aid Framework to Support the Economy

March 2020

As part of its economic response to the COVID-19 pandemic, the European Commission (the “**Commission**”) has pledged “full flexibility” on EU State aid rules and adopted a Temporary State aid Framework to enable Member States to take swift action to support businesses affected by the outbreak.

This follows the Commission’s Communication on a *Coordinated economic response to the COVID-19 outbreak* of 13 March 2020¹, which set out the various options available to Member States outside the scope of EU State aid rules. These include measures applicable to all undertakings regarding wage subsidies, suspension of payments of corporate and value added taxes or social welfare contributions, or financial support directly to consumers for cancelled services or tickets not reimbursed by the concerned operators.

TEMPORARY STATE AID FRAMEWORK

On 19 March 2020, the Commission announced that it has adopted a Temporary Framework to enable Member States to further support their economies in the context of the COVID-19 outbreak.² The Temporary Framework enables Member States to take action to ensure that sufficient liquidity remains available to businesses of all types and to preserve the continuity of economic activity during and after the outbreak.

Under the Temporary Framework, Member States can apply to the Commission for State aid approval of support measures falling within the following categories provided certain conditions are met:

- **Direct grants, selective tax advantages and advance payments:** Member States will be able to set up schemes to grant up to €800,000 to a company to address its urgent liquidity needs.³
- **State guarantees for loans taken by companies from banks:** Member States will be able to provide State guarantees to ensure banks keep providing loans to the customers who need them.⁴
- **Subsidised public loans to companies:** Member States will be able to grant loans with favourable interest rates to companies. These loans can help businesses cover immediate working capital and investment needs.⁵
- **Safeguards for banks that channel State aid to the real economy:** Some Member States plan to build on banks’

existing lending capacities, and use them as a channel for support to businesses – in particular to small and medium-sized companies. The Temporary Framework makes clear that such aid is considered as direct aid to the banks’ customers, not to the banks themselves, and gives guidance on how Member States can ensure minimal distortion of competition between banks.

- **Short-term export credit insurance:** The Temporary Framework introduces additional flexibility on how to demonstrate that certain countries are not-marketable risks, thereby enabling short-term export credit insurance to be provided by the State where needed.

The Framework will remain in place until the end of December 2020 and only companies that have encountered financial difficulties after 31 December 2019 will be eligible for aid.

In addition to utilising the Temporary Framework, Member States can put in

¹ Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Investment Bank and the Eurogroup on Coordinated economic response to the COVID-19 Outbreak, COM(2020) 112 final of 13.03.2020.

² State aid: Commission adopts Temporary Framework to enable Member States to further support the economy in the COVID-19 outbreak, Brussels, 19 March 2020. Available [here](#).

³ Certain additional conditions apply to the agriculture, fisheries and aquacultural sectors.

⁴ Certain conditions apply in relation to premium levels, loan principal amounts, duration of guarantee and the extent to which the State guarantee can cover the loan principal.

⁵ Certain conditions apply in relation to interest rates, loan amounts and loan duration.

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place support measures under existing State aid frameworks⁶, including under the General Block Exemption Regulation⁷, the *De Minimis* Regulation⁸, the rescue and restructuring framework under Article 107(3)(c) TFEU⁹ and the framework for damage resulting from natural disasters or exceptional circumstances under Article 107(2)(b) TFEU¹⁰.

The Commission has confirmed that it will ensure swift adoption of State aid decisions on measures taken in response to the COVID-19 outbreak. For example, on 12 March 2020, the Commission approved its first State aid measure relating to the outbreak. It approved a Danish aid scheme of DKK 91 million (€12 million) to compensate event organisers if their events are cancelled or postponed due to the outbreak.¹¹ The Commission approved the scheme within 24 hours of receiving the notification from Denmark

IRELAND'S RESPONSE

The COVID-19 crisis has prompted the Irish Government to announce a range of supports for impacted businesses which, for the moment, focus on cash flow support¹². On 10 March 2020,

the following support packages were announced by the Department of Business, Enterprise and Innovation:

- A €200m Strategic Banking Corporation of Ireland Working Capital Scheme for eligible businesses. Loans of up to €1.5m will be available at reduced rates, with up to the first €500,000 unsecured;
- A €200m Package for Enterprise Supports including a Rescue and Restructuring Scheme available through Enterprise Ireland for vulnerable but viable firms that need to restructure or transform their business;
- The maximum loan available from MicroFinance Ireland will be increased from €25,000 to €50,000 as an immediate measure to specifically deal with exceptional circumstances that micro-enterprises (sole traders and firms with up to 9 employees) are facing; and
- The Credit Guarantee Scheme will be available to Covid-19 impacted firms through the Pillar Banks. Loans of up to €1m will be available at terms of up to 7 years.

The situation is continuing to evolve rapidly and further measures may be put in place at an EU or national level to address the economic impact of the COVID-19 pandemic. Both the European Commission and the Irish Government have signalled their clear intention to respond with appropriate action to support businesses affected by the crisis, and to avoid any unnecessary delays in implementing such measures.

FURTHER GUIDANCE

The Arthur Cox competition and regulated markets team has a leading track record of advising on State measures in the context of economic shocks, including having advised the Department of Finance of Ireland and the National Treasury Management Agency on the support measures for the banking sector introduced in the context of the financial crisis.

For further information on COVID-19 State aid developments and how they might be relevant for your business please contact a member of our team.

6 See European Commission, European Coordinated Response on Coronavirus: Questions and Answers, published 13 March 2020. Available [here](#).

7 Regulation (EU) No. 651/2014.

8 Regulation (EU) No. 1407/2013.

9 Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p.1. The Commission has authorised various schemes in nine different Member States.

10 See for example, Commission decision SA. 56685, Denmark - Compensation scheme for cancellation of events related to COVID-19, [here](#).

11 SA.56685 State aid notification on compensation scheme cancellation of events related to COVID-19

12 See: <https://dbei.gov.ie/Djei/en/News-And-Events/Department-News/2020/March/10032020.html>

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