



CPI's Europe Column Presents:

State Aid: COVID-19 Temporary Framework

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Introduction

Due to the COVID-19 pandemic, several Member States have implemented measures to contain the spread of the virus that “have an immediate impact on both demand and supply, and hit [companies] and employees, especially in the health, tourism, culture, retail and transport sectors.”² Therefore, countries have decided to financially support industries and people.³

Such support may amount to State aid if it distorts or threatens to distort competition by favouring particular industries or companies. State aid is defined as “an advantage in any form whatsoever conferred on a selective basis to undertakings by national public authorities” so far as it likely affects trade between Member States and distorts competition.⁴ Nevertheless, State aid is or may be deemed compatible with the internal market under certain scenarios including:

- Under Article 107(2)(b) of the Treaty on the Functioning of the European Union (TFEU) “to make good the damage caused by...exceptional occurrences.”⁵ The European Commission (EC) concluded in its 12 March 2020 decision that “the COVID-19 outbreak qualifies as an ‘exceptional occurrence’ for the purpose of Article 107(2)(b)”;⁶ and
- Under Article 107(3)(b) of the TFEU “to remedy a serious disturbance in the economy of a Member State” and Article 107(3)(c) of the TFEU “to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.”⁷

This article provides a summary of the EC’s COVID-19 Temporary Framework as of May 29, 2020. The annex provides a more detailed view of each measure.

Summary of COVID-19 Temporary Framework

The EC adopted a Temporary Framework (TF) in light of the COVID-19 outbreak under Article 107(3)(b) TFEU on March 19, 2020, a First Amendment to the TF under Articles 107(3)(b) TFEU and 107(3)(c) TFEU on April 3, 2020, and a Second Amendment to the TF under Article 107(3)(b) TFEU on May 8, 2020 so that Member States can “use the full flexibility foreseen under State aid rules to support their economy and help overcome the extremely difficult situation triggered by the Coronavirus outbreak.”⁸

The TF is valid until December 31, 2020, with the exception of recapitalisation measures being extended until July 1, 2021, and sets out the compatibility conditions that the EC will apply in principle when assessing proposed aid measures by Member States.⁹ The following types of State aid measures are allowed – subject to conditions – under this TF, where these measures can be categorised into four categories:¹⁰

- Providing financial support for undertakings
 - Direct grants, repayable advances and tax advantages
 - State guarantees for loans

- Subsidised interest rates for loans and aid in the form of subordinated debt
 - Short-term export-credit insurance
- Promoting investment into COVID-19 relevant research, testing and production
 - Aid for COVID-19 relevant research and development
 - Aid for testing and upscaling infrastructures for COVID-19 relevant products
 - Aid for investment in the production of COVID-19 relevant products
- Preserving employment
 - Deferrals of tax and/or social security contributions
 - Wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak
- Offering recapitalisation measures¹¹

In line with general State aid regulations, these aid measures must be (i) directly linked to the damage caused by the COVID-19 outbreak; and (ii) proportionate, that is, compensation should not exceed what is necessary to make good the damage and recapitalisations must “not exceed the minimum needed to ensure the viability of the beneficiary, and should not go beyond restoring the capital structure of the beneficiary to the one predating the COVID-19 outbreak.”¹² There are further conditions imposed primarily intended to limit the potential negative consequences of the allowed aid measures to the level playing field within the internal market. Below are a few examples of such conditions:

- Undertakings that were in financial difficulty as of December 31, 2019 cannot be beneficiaries to the aforementioned aid measures under the TF;¹³
- The TF links the subsidised loan amounts or guarantees allowed to undertakings to the scale of their economic activity by reference to their wage bill, turnover, and liquidity needs. For example, for loans with a maturity beyond December 31, 2020 the amount of the loan cannot exceed 25 percent of the total turnover of the beneficiary in 2019;¹⁴
- When the aforementioned aid measures are meant to be channelled through financial intermediaries (e.g. banks), the TF stipulates that any indirect advantage to the intermediary must be minimised;¹⁵
- For COVID-19 R&D projects that started before February 1, 2020 only “the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid”;¹⁶ and
- When receiving recapitalisation “beneficiaries must not engage in aggressive commercial expansion financed by State aid or...tak[e] excessive risks,” where recapitalisation “should only be considered if no other appropriate solution can

be found and [will] be subject to stringent conditions...because such instruments are highly distortive for competition between undertakings.”¹⁷

When notifying State aid schemes¹⁸ under the TF to the EC, Member States must provide evidence that all the conditions specified under the TF are being respected.¹⁹ Further details and conditions that must be met with regard to each of these measures are discussed in the Annex.

Conclusion

As of May 29, 2020, over 100 State aid schemes have been approved across several Member States by the EC under the TF.²⁰ Although the EC has via the TF communicated general guidelines on the types of aid measures that it will consider compatible with the internal market, the measures are nevertheless designed by the individual Member States themselves.

There are multiple elements to the TF for COVID-19, including support for undertakings (e.g. grants, loans, deferrals of payments, subordinated debt, and recapitalisation measures), investment for COVID-19 relevant products (e.g. for R&D, testing/upscaling, and production), and preserving employment (e.g. subsidies for employees’ wages). It is, however, important for undertakings to ensure any support they get is approved within the schemes approved under either the TF or the EU State aid regulations. If not, then undertakings risk having to repay the aid received in the future.²¹

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- ¹ The views expressed in this report are solely those of the authors, who are responsible for the content, and do not necessarily represent the views of Cornerstone Research.
- ² European Commission, “Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak,” March 19, 2020 (“Original TF”), ¶ 3, https://ec.europa.eu/competition/state_aid/what_is_new/sa_covid19_temporary-framework.pdf.
- ³ Financial Times, “How major economies are trying to mitigate the coronavirus shock,” March 30, 2020, <https://www.ft.com/content/26af5520-6793-11ea-800d-da70cff6e4d3>.
- ⁴ European Commission, “State aid control,” https://ec.europa.eu/competition/state_aid/overview/index_en.html.
- ⁵ TFEU Article 107, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E107&from=EN>.
- ⁶ European Commission, “Notification under Article 107(2)(b) TFEU,” https://ec.europa.eu/competition/state_aid/what_is_new/Notification_template_107_2_b_PUBLICATION.pdf.
- ⁷ TFEU Article 107, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E107&from=EN>.
- ⁸ European Commission, “Coronavirus Outbreak – List of Member State Measures approved under Article 107(2)b TFEU, Article 107(3)b TFEU and under the Temporary State Aid Framework” (“List of Measures”), https://ec.europa.eu/competition/state_aid/what_is_new/State_aid_decisions_TF_and_107_2_b_and_107_3_b.pdf, accessed on May 29, 2020; European Commission, “Amendment to the Temporary Framework for State aid Measures to support the economy in the current COVID-19 outbreak,” April 3, 2020 (“First Amendment to the TF”), https://ec.europa.eu/competition/state_aid/what_is_new/sa_covid19_1st_amendment_temporary_framework_en.pdf; European Commission, “Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak,” May 8, 2020 (“Second Amendment to the TF”), ¶ 3, [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0513\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0513(01)&from=EN).
- ⁹ Original TF, ¶¶ 19, 39; Second Amendment to the TF, ¶ 40. The extension for recapitalisation matters is since “solvency issues may materialise only at a later stage as this crisis evolves.” See European Commission, “State aid: Commission expands Temporary Framework to recapitalisation and subordinated debt measures to further support the economy in the context of the coronavirus outbreak,” May 8, 2020, https://ec.europa.eu/commission/presscorner/detail/en/ip_20_838.
- ¹⁰ Original TF; [First Amendment to the TF](#); Second Amendment to the TF.
- ¹¹ This last category was introduced because otherwise viable non-financial undertakings may “face longer-term solvency issues” since “emergency measures put in place to control the spread of the COVID-19 outbreak have resulted in a decrease or even suspension of [these undertakings’] production of goods and/or the provision of services, as well as a significant demand shock. The resulting losses will be reflected in a decrease of undertakings’ equity and will negatively affect their ability to take on loans from financial institutions.” See Second Amendment to the TF, ¶ 4.
- ¹² Original TF, ¶¶ 18–19; Second Amendment to the TF, ¶ 6.
- ¹³ Original TF; First Amendment to the TF; Second Amendment to the TF.
- ¹⁴ Original TF, ¶¶ 25, 27; First Amendment to the TF, ¶¶ 15, 16.
- ¹⁵ Original TF, ¶¶ 30–31.
- ¹⁶ First Amendment to the TF, ¶ 18.
- ¹⁷ Second Amendment to the TF, ¶¶ 7, 37.
- ¹⁸ An “aid scheme” is defined as “any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be awarded to one or several undertakings for an indefinite period of time and/or for an indefinite amount.” See European Commission, “EU Competition Law Rules applicable to State Aid,” April 15, 2014, Article 1(d), https://ec.europa.eu/competition/state_aid/legislation/compilation/state_aid_15_04_14_en.pdf.
- ¹⁹ Original TF, ¶ 19.
- ²⁰ List of Measures, [accessed on May 29, 2020](#).
- ²¹ European Commission, “Recovery of unlawful aid,” https://ec.europa.eu/competition/state_aid/studies_reports/recovery.html.

Annex

This Annex provides further details for each of the aid measures under the Temporary Framework.¹

Original Temporary Framework aid: focus on liquidity

Initially, the TF adopted on March 19, 2020 provided for the following types of aid – subject to conditions – under Article 107(3)(b) concerning support for undertakings mainly regarding liquidity:

- **Section 3.1 - Direct grants, repayable advances or tax advantages:** these are allowed up to a total nominal amount of €800,000 per undertaking before any deduction of tax or other charge, to remedy a shortage or unavailability of liquidity.²
 - They must be granted by December 31, 2020.
- **Section 3.2 - State guarantees for loans:** the TF states that to remedy a liquidity shortage, “public guarantees on loans for a limited period and loan amount can be an appropriate, necessary and targeted solution during the current circumstances.”³ The duration of the guarantee cannot exceed six years. The guarantee premiums are set at a minimum level depending on if the loan is for small and medium-sized enterprises (SMEs) or large enterprises (higher minimum level for the latter), and this minimum level shall increase progressively as the duration of the guaranteed loan increases.⁴
 - Member States can notify schemes whereby guarantee duration, guarantee premiums and guarantee coverage may be modulated for each underlying individual loan principal. For instance, lower guarantee coverage could offset a longer duration, or a flat premium can be used for the entire duration if it is above the minimum premium defined for the first year.
 - The loan principal amount for loans maturing after December 31, 2020 must be limited to the scale of the undertaking’s economic activity based on wage bill (double of the undertaking’s annual wage bill including social charges and subcontracted workers on-site), or turnover (“25% of total turnover of the beneficiary in 2019”), but can be increased to cover liquidity needs (“for the coming 18 months for SMEs and for the coming 12 months for large enterprises”).
 - Loans with maturity in 2020 can be allowed to have higher loan principal amounts with appropriate justification.
 - The State guarantee cannot be more than 90 percent of the loan principal if losses are sustained proportionally, or 35 percent if the State takes the first loss.

- The guarantee must be granted by December 31, 2020.
- **Section 3.3 - Subsidised interest rates for loans:** to remedy a liquidity shortage, the TF allows Member States to provide loans to undertakings with subsidised interest rates which are at least equal to one-year IBOR (or equivalent) – as of January 1, 2020 – plus a specified credit risk margin which depends on whether the loan is for SMEs or large enterprises (higher margin for the latter), and the duration of the loan cannot exceed six years. The specified credit risk margin increases progressively as the duration of the loan increases.⁵
 - Member States can notify schemes whereby the loan maturity and the level of credit risk margins may be modulated. For instance, a flat credit risk margin could be used for the entire duration of the loan if it is above the minimum credit risk margin defined for the first year.
 - The loan principal limits for loans maturing after December 31, 2020 are as defined in Section 3.2.
 - Loans with maturity in 2020 can have higher loan principals with appropriate justification.
 - The loan contracts must be signed by December 31, 2020.
- **Section 3.4 - Guarantees and loans channelled through credit institutions or other financial institutions:** if the aid under Sections 3.1, 3.2 and 3.3 is provided through financial intermediaries then the TF requires that safeguards are in place to not favour these financial intermediaries.⁶ In particular, the relevant financial intermediary “shall be able to demonstrate that it operates a mechanism that ensures that the advantages are passed on to the largest extent possible to the final beneficiaries in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates.”⁷
- **Section 3.5 - Short-term export-credit insurance:** under the TF, public insurers can now provide insurance for short-term export-credit risk for all countries. Note that normally “marketable risks cannot be covered by export-credit insurance with the support of Member States” for certain listed countries.⁸ However, under the TF, the EC “considers all commercial and political risks associated with exports to [those listed countries] as temporarily non-marketable until 31 December 2020.”⁹

First Amendment to Temporary Framework aid: COVID-19 relevant products

The First Amendment to the Temporary Framework of April 3, 2020 also allowed the following types of aid regarding COVID-19 relevant products ranging from R&D up to production stage – subject to conditions – under Article 107(3)(c):

- **Section 3.6 - Aid for COVID-19 relevant research and development:** this relates to COVID-19 and other antiviral relevant research.
 - The aid must be granted as “direct grants, repayable advances or tax advantages by 31 December 2020.”¹⁰
 - For each beneficiary, the aid “may cover 100% of eligible costs for fundamental research and [cannot] exceed 80% of eligible costs for industrial research and experimental development,” but the latter limit can be increased by 15 percentage points if “more than one Member State supports the research project, or it is carried out in cross-border collaboration with research organisations or other undertakings.”¹¹
- **Section 3.7 - Investment aid for testing and upscaling infrastructures:** this relates to the development, testing and upscaling of COVID-19 relevant products “up to first industrial deployment prior to mass production.”¹²
 - The aid must be granted as “direct grants, tax advantages or repayable advances by 31 December 2020.”¹³
 - The project for which aid is granted must be completed within six months (otherwise penalties apply).
 - The aid cannot “exceed 75% of the eligible costs” which are defined as “the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the products,” but this limit can be increased by 15 percentage points if either the investment concludes within two months or more than one Member State supports the project.¹⁴
 - The aid is conditional on the “price charged for the services provided by the testing and upscaling infrastructure [corresponding] to the market price.”¹⁵
- **Section 3.8 - Investment aid for the production of COVID-19 relevant products:**
 - The aid must be granted as “direct grants, tax advantages or repayable advances by 31 December 2020.”¹⁶
 - The project for which aid is granted must be completed within six months (otherwise penalties apply).
 - The aid cannot “exceed 80% of the eligible costs” which relate to investment costs for the production of COVID-19 relevant products and the costs of “trial runs of the new production facilities,” but this limit can be increased by 15 percentage points if either the investment concludes within two months or more than one Member State supports the project.¹⁷

For projects that started before February 1, 2020 only “the additional costs in relation to the acceleration efforts or the widened scope [are] eligible for aid.”¹⁸

First Amendment to Temporary Framework aid: preserving employment

The First Amendment of April 3, 2020 also allowed the following types of aid to preserve employment – subject to conditions – under Article 107(3)(b):¹⁹

- **Section 3.9 - Deferrals of tax and/or of social security contributions:**²⁰ this measure can be used by Member States to reduce liquidity constraints of undertakings, including self-employed individuals, and to preserve employment. It relates to undertakings “particularly affected by the COVID-19 outbreak, for example in specific sectors, regions or of a certain size.”²¹
 - The aid must “be granted before 31 December 2020 and the end date for the deferral [should] not be later than 31 December 2022.”²²
- **Section 3.10 - Wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak:** this measure can be used by Member States to preserve employment via “contributing to the wage costs of undertakings (including self-employed individuals)” who “would otherwise lay off personnel” because of “the suspension or reduction of business activities due to the COVID-19 outbreak.”²³ This measure relates to undertakings “in specific sectors, regions or of a certain size that are particularly affected by the COVID-19 outbreak.”²⁴
 - “The wage subsidy [must be] granted over a period of not more than twelve months after the application for aid” and “the benefitting personnel [must be] maintained in continuous employment for the entire period for which the aid is granted.”²⁵
 - “The monthly wage subsidy [must] not exceed 80% of the monthly gross salary (including employer’s social security contributions) of the benefitting personnel.”²⁶

Second Amendment to Temporary Framework aid: recapitalisation and subordinated debt measures

The Second Amendment of May 8, 2020 also allowed the following types of aid – subject to conditions – under Article 107(3)(b) concerning support for undertakings regarding liquidity and financial difficulties:²⁷

- **Addition to Section 3.3 - Aid to companies in the form of subordinated debt:** to remedy a liquidity shortage, this measure allows Member States to provide subordinated debt to companies at favourable terms. This only falls under Section 3.3, which concerns debt instruments, if the principal amount of debt being granted per beneficiary is less than one-third (for large enterprises) or half (for SMEs) of the limits specified in the Original TF and the First Amendment to the TF (regarding the beneficiary’s wage bill or turnover), since subordinated debt “increases the ability of companies to take on senior debt in a way similar to capital support.” Otherwise subordinated debt will be assessed under Section 3.11.²⁸

- The interest rates on such subordinated debt must be at least equal to the rates already specified under Section 3.3 plus 200 bps for large enterprises and 150 bps for SMEs. Modulated versions of such a scheme can also be notified by Member States.²⁹
- **Section 3.11 - Recapitalisation aid to companies:** to remedy financial difficulties, this measure allows Member States to offer aid “in the form of equity and/or hybrid capital instruments” that fall outside the limits of Section 3.1 of the TF.³⁰ Equity instruments are in particular the issuance of new common or preferred shares, while hybrid capital instruments (instruments with an equity component) are in particular profit participation rights, silent participations and convertible secured or unsecured bonds.³¹ There are stringent conditions that have to be met to receive this type of aid, including incentives to repay the recapitalisation, not paying bonuses or dividends, and limitations on acquisitions.³²
 - Eligibility and entry conditions: (a) without the aid “the beneficiary would go out of business or would face serious difficulties to maintain its operations”; (b) it is in the common interest to intervene (e.g. avoiding social hardship and market failure due to significant loss of employment, the exit of an innovative or systemically important company, the risk of disruption to an important service); (c) “the beneficiary is not able to find financing on the markets at affordable terms and the horizontal measures existing in the Member State concerned to cover liquidity needs are insufficient to ensure its viability”; and (d) “the beneficiary is not an undertaking that was already in financial difficulty on 31 December 2019.”³³
 - Remuneration and exit of the State: there must be a “mechanism in place to gradually incentivise redemption” of the recapitalisation “when the economy stabilises” and to “minimise the risk of distortions of competition.”³⁴
 - Equity: the State’s capital injection must be conducted at a price “that does not exceed the average share price of the beneficiary over the 15 days preceding the request for the capital injection.” For non-publicly listed companies, an independent market valuation or other proportionate means must be used. To incentivise the beneficiary to buy back the State’s capital injections, the measure must include a step-up mechanism which increases the remuneration of the State over time for providing the equity injection depending on the outstanding share of the injection. The buy-back price of the State’s equity stake must be the higher of (i) the “nominal investment by the State increased by an annual interest remuneration 200 basis points higher [for up to seven years] than [that specified for hybrid capital instruments (see below)]” and (ii) the market price at the buy-back moment.

Alternatively, the State can “sell at any time its stake at market prices to purchasers other than the beneficiary.”³⁵

- Hybrid capital instruments: the remuneration (until converted to equity-like instruments) of the State must be set equal to at least one-year IBOR (or equivalent) plus a premium which depends on whether the recapitalisation is for SMEs or large enterprises (higher premium for the latter), and the duration since recapitalisation. Conversion of hybrid capital instruments into equity must “be conducted at 5 percent or more below TERP (Theoretical Ex-Rights Price) at the time of the conversion.” Step-up mechanisms must be included following the conversion into equity, including that if two years after the conversion, the State’s injections remain unpaid, then the State must receive an additional share of ownership.³⁶
- Governance and prevention of undue distortions of competition: There are competition-related rules in place where beneficiaries cannot use the State aid to “engage in aggressive commercial expansion...or...tak[e] excessive risks.”
 - Commitments are required by the Member States to preserve effective competition if an undertaking receives more than €250 million and has “significant market power on at least one of the relevant markets in which it operates.”
 - While at least 75 percent of the recapitalisation has not been redeemed, “beneficiaries other than SMEs shall be prevented from acquiring a more than 10% stake in competitors or other operators in the same line of business, including upstream and downstream operations,” and management remuneration can only be the fixed amount as per December 31, 2019.
 - Only in exceptional circumstances, to maintain its viability, the beneficiary can acquire more than 10 percent of an upstream or downstream operator.
 - “As long as the COVID-19 recapitalisation measures have not been fully redeemed, beneficiaries cannot make dividend payments, nor non-mandatory coupon payments, nor buy back shares, other than in relation to the State.”³⁷
- Exit strategy of the State from the participation resulting from the recapitalisation and reporting obligations: unless the State’s intervention is reduced below 25 percent of equity within 12 months since the granting of aid, beneficiaries that are not SMEs with recapitalisation of more than 25 percent of equity at the time of intervention by the State must provide a credible exit strategy for the State. This exit strategy must be submitted within 12 months after the aid is granted. The beneficiary should also regularly “publish information on the use of the aid received” and in particular on “how [its] use of the aid received supports [its] activities in

line with EU objectives and national obligations linked to the green and digital transformation, including the EU objective of climate neutrality by 2050.” A restructuring plan has to be notified to the Commission for approval if six years after the COVID-19 recapitalisation, the State’s intervention has not been reduced below 15 percent of the beneficiary’s equity.³⁸

¹ The EC notes that “[a]id granted under section 3.2 shall not be cumulated with aid granted for the same underlying loan principal under section 3.3 and vice versa. Aid granted under section 3.2 and section 3.3 may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) or in point 27(d) [of the Temporary Framework]. A beneficiary may benefit in parallel from multiple measures under section 3.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point[s] 25(d) and (e) [of the Temporary Framework].” Similarly, “[a] beneficiary may benefit in parallel from multiple measures under section 3.3 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in points 27(d) and (e) [of the Temporary Framework].” See Second Amendment to the TF, ¶¶ 25, 29.

² The maximum nominal amount is €120,000 for undertakings active in the fishery and aquaculture sector and €100,000 for undertakings active in the primary production of agricultural products. See Original TF, ¶ 23.

³ Original TF, ¶ 24.

⁴ The Original TF suggested that the minimum levels of the guarantee premiums were to be higher for longer maturity loans. It was clarified in the First Amendment to the TF, however, that the minimum levels of the guarantee premium were to increase progressively with the duration of the guaranteed loan instead. See Original TF, ¶ 25; First Amendment to the TF, ¶ 15.

⁵ The Original TF suggested that the specified credit risk margins were higher for longer maturity loans. It was clarified in the First Amendment, however, that the specified credit risk margins were to increase progressively with the duration of the loan instead. See Original TF, ¶ 27; First Amendment to the TF, ¶ 16.

⁶ Original TF, ¶ 28. Aid under Section 3.1 was included under the Second Amendment to the TF. See Second Amendment to the TF, ¶ 33.

⁷ Original TF, ¶ 31.

⁸ Original TF, ¶ 32.

⁹ First Amendment to the TF, ¶ 17.

¹⁰ First Amendment to the TF, ¶ 18.

¹¹ First Amendment to the TF, ¶ 18.

¹² First Amendment to the TF, ¶ 19.

¹³ First Amendment to the TF, ¶ 19. In addition, a loss cover guarantee may be granted within one month after the undertaking applies for it. See First Amendment to the TF, ¶ 19.

¹⁴ First Amendment to the TF, ¶ 19.

¹⁵ First Amendment to the TF, ¶ 19.

¹⁶ First Amendment to the TF, ¶ 20. In addition, a loss cover guarantee may be granted within one month after the undertaking applies for it. See First Amendment to the TF, ¶ 20.

¹⁷ First Amendment to the TF, ¶ 20.

¹⁸ First Amendment to the TF, ¶¶ 18–20.

¹⁹ If such support schemes “apply to the whole economy, they fall outside the scope of State aid control. If they are restricted, for example, to certain sectors (e.g. transport, tourism, health), regions or types of undertakings, they involve aid within the meaning of Article 107(1) TFEU.” See First Amendment to the TF, ¶ 6.

²⁰ The EC notes that it will also consider compatible with the internal market aid measures “provided for in relation to fiscal and social security obligations intended to ease the liquidity constraints faced by the beneficiaries, includ[ing] but not limited to the deferral of payments due in instalments, easier access to tax debt payment plans and of the granting of interest free periods, suspension of tax debt recovery, and expedited tax refunds.” See First Amendment to the TF, ¶ 21.

²¹ First Amendment to the TF, ¶ 21.

²² First Amendment to the TF, ¶ 21.

²³ First Amendment to the TF, ¶ 22.

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- ²⁴ First Amendment to the TF, ¶ 22.
- ²⁵ First Amendment to the TF, ¶ 22.
- ²⁶ First Amendment to the TF, ¶ 22. The EC further notes that “in particular in the interest of low wage categories, alternative calculation methods of the aid intensity, such as using the national wage average or minimum wage” can be used. See First Amendment to the TF, ¶ 22.
- ²⁷ Recapitalisation measures allowed under this amendment are aimed at “ensuring that the disruption of the economy does not result in the unnecessary exit from the market of undertakings that were viable before the COVID-19 outbreak.” See Second Amendment to the TF, ¶ 37.
- ²⁸ Second Amendment to the TF, ¶ 28. Subordinated debt is defined as debt which is “subordinated to ordinary senior creditors in the case of insolvency proceedings.” See Second Amendment to the TF, ¶ 28.
- ²⁹ Second Amendment to the TF, ¶ 32.
- ³⁰ Second Amendment to the TF, ¶ 37, footnote 21.
- ³¹ Second Amendment to the TF, ¶ 37. Member States may “also underwrite [these] instruments in the context of a market offering.” See Second Amendment to the TF, ¶ 37.
- ³² Second Amendment to the TF, ¶ 37.
- ³³ Second Amendment to the TF, ¶ 37.
- ³⁴ Second Amendment to the TF, ¶ 37.
- ³⁵ Second Amendment to the TF, ¶ 37. The Commission “may accept alternative [step-up] mechanisms, provided they overall lead to a similar outcome with regard to the incentive effects on the exit of the State and a similar overall impact on the State’s remuneration.” See Second Amendment to the TF, ¶ 37.
- ³⁶ Second Amendment to the TF, ¶ 37. Additional step-up or payback clauses or alternative pricing methodologies may be accepted by the Commission. See Second Amendment to the TF, ¶ 37.
- ³⁷ Second Amendment to the TF, ¶ 37.
- ³⁸ Second Amendment to the TF, ¶ 37. For the purposes of this point, hybrid instruments granted by the State are to be counted as equity. See Second Amendment to the TF, footnote 29.