



EUROPEAN COMMISSION

Brussels, 1.07.2020  
C(2020) 4565 final

PUBLIC VERSION

This document is made available for  
information purposes only.

**Subject: State Aid SA.57408 (2020/N) – Romania**  
**COVID-19: Framework scheme for State aid in the form of**  
**subsidised loans and guarantees on loans**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 17 June 2020, Romania notified aid in the form of guarantees on loans and loans with subsidised interest rates (Framework scheme for State aid in the form of subsidised loans and guarantee on loans, “the measures”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).<sup>1</sup>
- (2) Romania exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958,<sup>2</sup> and to have this Decision adopted and notified in English.

---

<sup>1</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1–9, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3–15, and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (not yet published).

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

Bogdan Aurescu  
Ministru al Afacerilor Externe  
Aleea Alexandru nr. 31  
Sector 1  
RO - 011822 BUCUREȘTI

## **2. DESCRIPTION OF THE MEASURES**

- (3) Romania considers that the COVID-19 outbreak has started to affect the real economy. The measures form part of an overall package of measures and aim to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (4) The compatibility assessment of the measures is based on Article 107(3)(b) TFEU, as interpreted by Sections 2, 3.2, 3.3 and 3.4 of the Temporary Framework.

### **2.1. The nature and form of aid**

- (5) The measures provide aid in the form of guarantees on loans (“Measure A”) and aid in the form of subsidised interest rates for loans (“Measure B”).

### **2.2. Legal basis**

- (6) The legal basis for the measures consists of the following:
  - Law no. 96/2000 regarding the establishment and functioning of Banca de Export-Import a Romania EximBank S.A. (“EximBank”);
  - Government Decision no. 534/2007 regarding the establishment, duties and competencies of the Interministerial Committee for Finance, Guarantees and Insurance (ICFGI) and the regulation of EximBank’s financing, guarantee and insurance operations in the name and on behalf of the State;
  - Decision of the Inter-ministerial Committee for Financing, Guarantees and Insurance regarding the framework scheme for State aid in the form of subsidised loans and guarantee on loans in the context of COVID-19 outbreak.

### **2.3. Administration of the measures**

- (7) The measures will be implemented by the mandated arm of the Export Import Bank of Romania (“EximBank”), EximBank-DFGANCS, acting in the name and on behalf of the Romanian State.
- (8) The Romanian authorities confirm that, when administering the measures, EximBank-DFGANCS will act in full independence and with the necessary safeguards to ensure the administration of the measure is strictly separated from the activities of the commercial arm of EximBank. In particular, the Romanian authorities refer to (i) the functional separation of the operations from the commercial arm of the bank for the administration of the measures, (ii) the responsibility of the Inter-ministerial Committee for Financing, Guarantees and Insurance, a governmental committee without involvement with the commercial operations of EximBank, to approve the granting of the measures, and (iii) the separation of the accounts of the commercial and mandated arms of EximBank,

the latter being subject to Romanian Court of Accounts controls and internal audit missions.

- (9) The Romanian authorities confirm that there will be no possible discrimination between clients of EximBank's commercial banking and clients of other private commercial banks for the purpose of these measures and that EximBank-DFGANCS will apply the same standards, eligibility criteria and procedures as for any other commercial bank's clients.

#### **2.4. Budget and duration of the measures**

- (10) The estimated budget of the measures is RON 4 billion (approximately EUR 800 million), allocated as follows:
- For Measure A: RON 2 billion (approximately EUR 400 million) that will allow for the issuance of guarantees for an amount up to RON 6.5 billion (approximately EUR 1.5 billion);
  - For Measure B: RON 2 billion (approximately EUR 400 million).
- (11) The Romanian authorities indicated that funds may be reallocated from one measure to another depending on the actual financing needs, within the limit of the overall budget.
- (12) Aid may be granted under the measures as from its approval until no later than 31 December 2020.

#### **2.5. Beneficiaries**

- (13) The final beneficiaries of the measures are undertakings active in Romania that qualify as SMEs<sup>3</sup> with an annual turnover above RON 20 million (approximately EUR 4 million) in 2019 and large undertakings. However, enterprises active in the sectors indicated in recital (16), including financial institutions, are excluded as eligible final beneficiaries.
- (14) Aid may not be granted under the measures to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")<sup>4</sup>, Regulation 702/2014 ("ABER")<sup>5</sup> or Regulation 1388/2014 ("FIBER")<sup>6</sup> on 31 December 2019.

---

<sup>3</sup> 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.

<sup>4</sup> 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;

<sup>5</sup> As defined in 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;

<sup>6</sup> As defined in 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

- (15) Aid is granted under the measures either directly by EximBank-DFGANCS or through credit institutions and other financial institutions as financial intermediaries. The Romanian authorities confirmed that all commercial banks operating in Romania will have access to the measure, provided they comply with the business and administrative conditions required by such processes.

## **2.6. Sectoral and regional scope of the measure**

- (16) The measures apply to the whole territory of Romania and are open to all sectors except the following sectors:
- Gambling and betting industries;
  - Manufacturing and distribution of weaponry, ammunition, explosives, tobacco, alcohol, substances under national control, herbs, narcotic and psychotropic substances and formulas;
  - Investigative and protection services;
  - Real estate transactions; and
  - Financial intermediation and insurance<sup>7</sup>.

## **2.7. Basic elements of the measure**

### *2.7.1. Measure A*

- (17) The measure provides aid in the form of guarantees on loans that meet the following conditions:
- They are investment or working capital loans, and cannot be used for refinancing purposes to repay other loans.
  - They are either new or existing loans, with the exclusion of non-performing loans.
  - They have a maximum maturity of 6 years.
- (18) The maximum amount of the loans granted under the measure does not exceed:
- the 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

---

of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369 of 24 December 2014, p. 37.

<sup>7</sup> Enterprises included in NACE sector K ("financial and insurance activities") are excluded as final beneficiaries, although they can participate as financial intermediaries.

- 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.
- (19) The Romanian authorities confirm that the third option above related to the beneficiary's liquidity needs is intended to apply exceptionally in situations where an eligible undertaking, active in a particular sector or due to the specific nature of its activity, can justify why the limits provided under the other thresholds are not appropriate proxies to forecast their liquidity needs in the next months, in particular (i) fast-growing undertakings, with a low level of turnover or a less relevant wage bill in 2019<sup>8</sup> that are implementing large scale investment projects in order to fill a temporary market gaps in specific sectors like health, education or food industry or (ii) undertakings active in tourism or transport sectors that would face larger liquidity needs in order to implement investment projects, in a short period of time, aiming at complying with the new standards required for their usual activity<sup>9</sup>.
- (20) The granting of the guarantees is conditional to the following conditions:
- For new loans, when the guarantees are granted through financial intermediaries, they must commit to charge for the guaranteed loans the standard interest rates they would have applied before the COVID-19 outbreak for a loan with a risk profile equivalent to that of the guaranteed loan.
  - For existing loans, the guarantees will be granted where (i) upon the beneficiary's request, the financing bank amends the loan contract to more favourable terms for the beneficiary (increase in value, extending maturity of the loan, etc.) or (ii) where there would be a loss of value of collateral which would contractually allow the financing bank to revisit the conditions of the loan, the financing bank commits to at least maintain the original conditions of the loan (i.e. not to decrease the amount of the loan and/or not to increase its costs contrary to what would have been foreseen contractually).
- (21) The guarantee can cover up to 90% of the loan principal for new loans and up to 50% of the loan principal for existing loans.
- (22) The Romanian authorities may request a certain level of collateralisation of the eligible loans according to pre-specified general rules, which may in turn lead to a lower guarantee coverage than the maximum under recital (21). For guarantees on existing loans, the existing collateral cannot be released.
- (23) Losses will be incurred proportionally and under the same conditions between the financial intermediaries and EximBank-DFGANCS, according to the percentage covered by each party. Any collateral on a loan is also allocated proportionally.

---

<sup>8</sup> For fast growing companies, headcount and, as a consequence, wage bills can evolve very rapidly, therefore rendering previous figures irrelevant to predict future expenses.

<sup>9</sup> Such as: protection infrastructures, additional protection equipment, increasing capacity due to larger mandatory personal space regulations, etc.

- (24) When the size of the loans decreases over time, for instance because the loans start to be reimbursed, the principal amount of the qualifying loans, on which the maximum amount of the guarantee is based, will decrease proportionally.
- (25) The duration of the guarantee equals the maturity of the loan and may not exceed 6 years.
- (26) The remuneration of the guarantee is based on guarantee premiums that differ according to the nature of the beneficiary and the actual percentage coverage of the guarantee, as set out in the table below, according to a step-up approach (yearly premiums increase progressively with the increase of the duration):

Guaranteed amount ("GA", in % of the loan principal)	Year 1 (basis points)	Years 2 and 3 (basis points)	Years 4 to 6 (basis points)
<b>SMEs</b>			
$75\% < GA \leq 90\%$	25	50	100
$50\% < GA \leq 75\%$	20	40	80
$GA \leq 50\%$	15	30	60
<b>Large Enterprises</b>			
$75\% < GA \leq 90\%$	50	100	200
$50\% < GA \leq 75\%$	40	70	170
$GA \leq 50\%$	30	60	120

- (27) The Romanian authorities submit that the guarantee premiums are based on the levels set out in the Temporary Framework and are modulated to take into account the actual coverage applicable to each loan as specified in recital (21).
- (28) The mobilisation of the guarantee is contractually linked to specific conditions set out in the Guarantee Agreement, agreed between the parties when the guarantee is initially granted.

#### 2.7.2. *Measure B*

- (29) The measure provides aid in the form of loans that meet the following conditions:
- They are investment or working capital loans, and cannot be used for refinancing purposes to repay other loans.
  - They have a maximum maturity of 6 years.
  - They must be secured with collateral covering at least 100% of the loan principal.
- (30) The maximum amount for the loans granted under the measure does not exceed:
- (a) the 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
  - (b) 25% of the beneficiary's total turnover in 2019; or

- (c) 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 SME`s or 12 months for large enterprises.
- (31) The reference to the third option related the beneficiary`s liquidity needs is based on the same approach as for Measure A, described in recital (19).
- (32) The applicable annual interest rates for the loans granted under the measure are equal to<sup>10</sup>:
- The 3-month ROBOR applicable when interest is due, provided it is at least equal to the 1-year ROBOR applicable at the moment of the notification, i.e. 17 June 2020. The 1-year ROBOR applicable at the moment of the notification will act as a floor for the entire duration of the loan, so if at a given moment 3-month ROBOR falls under 1-year ROBOR of 17 June 2020, the latter will apply as base rate; plus
  - A credit risk margin depending on the duration of the loan and the type of beneficiary, as set-out in the table below:

Beneficiary	Year 1 (basis points)	Years 2 and 3 (basis points)	Years 4 to 6 (basis points)
SMEs	25	50	100
Large enterprises	50	100	200

- (33) The loans granted under the measure shall be repaid in one or several instalments, according to a predefined repayment schedule.
- (34) Loans can be directly provided by EximBank-DFGANCS or distributed by financial intermediaries through on-lending agreements; they can also be provided by EximBank-DFGANCS and combined with a separate loan from financial intermediaries that is not the object of this decision, and distributed by these financial intermediaries through risk sharing agreements. On-lending agreements will require the financial intermediaries to charge exclusively processing and monitoring fees to the beneficiaries. Risk-sharing agreements will set different conditions for the loan provided by EximBank-DFGANCS, where financial intermediaries will charge processing and monitoring fees, and the loan provided by the financial intermediaries themselves, falling outside the scope of this decision, for which they retain the exposure to the risk associated and apply market-conform conditions, including commercial rates.

### 2.7.3. *Additional provisions*

- (35) In order to be granted aid under both measures, eligible undertakings must meet the following additional conditions:
- (a) They were not subject of a decision for recovery of an incompatible State aid or if they were, the decision was executed according to the provisions of the applicable law;

---

<sup>10</sup> The minimum interest rate (base rate plus the credit risk margins) should be at least 10bps per year.

- (b) They are not subject to foreclosure, operational closure, winding-up, liquidation or special administration and are not subjected to any claim to competent legal courts for entering an arrangement with creditors or insolvency procedures by its initiative or a third creditor party;
- (c) They do not register debt toward the general consolidated State budget or, if the respective debt has not been settled, the debt should be settled before the signing of the contractual documents or, in case of working capital loans, before the first drawdown of the loan;
- (d) They are not parties in litigation against EximBank nor involved as defendants in litigation with the Ministry of Public Finance of Romania.

## **2.8. Cumulation**

- (36) The Romanian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations<sup>11</sup> or the Block Exemption Regulations<sup>12</sup> provided the provisions and cumulation rules of those Regulations are respected.
- (37) The Romanian authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

---

<sup>11</sup> In accordance with:

- Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1),
- Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9),
- 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) and
- Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

<sup>12</sup> In accordance with:

- 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,
- 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 and
- Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.



- (38) The Romanian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.
- (39) The Romanian authorities confirm that aid granted under Section 3.2 of the Temporary Framework shall not be cumulated with aid granted for the same underlying loan principal under Section 3.3 of that framework 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) and (e), or in point 27(d) and (e) of the Temporary Framework.
- (40) If there are multiple schemes under Section 3.2 and Section 3.3 of the Temporary Framework respectively, a beneficiary may benefit in parallel from them, provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) and (e) and in point 27(d) and (e) of the Temporary Framework as applicable.

## **2.9. Monitoring and reporting**

- (41) The Romanian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>13</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measures**

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

### **3.2. Existence of State aid**

- (43) 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.
- (44) The measures are imputable to the State, since they are administered by the EximBank-DFGANCS under the conditions set out in recital (8) and they are based on the national law and decisions described in recital (6). They are financed through State resources, since they are financed by public funds.

---

<sup>13</sup> Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014. For guarantees and loans, the nominal value of the underlying instrument shall be inserted per beneficiary.

- (45) The measures confer an advantage on their beneficiaries in the form of non-market conform guarantees on loans and subsidised interest rates for loans. The measures thus relieve those beneficiaries of costs, which they would have had to bear under normal market conditions.
- (46) The advantage granted by the measures is selective, since it is awarded only to certain undertakings, in particular excluding several sectors as described in recital (16), such as the financial sector.
- (47) The measures are liable to distort competition, since they strengthen the competitive position of their beneficiaries. They also affect trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (48) In view of the above, the Commission concludes that the measures constitute aid within the meaning of Article 107(1) TFEU. The Romanian authorities do not contest that conclusion.

### **3.3. Compatibility**

- (49) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether these measures are compatible with the internal market.
- (50) 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*”.
- (51) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in 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*”.
- (52) The measures aim at facilitating the access of undertakings 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.
- (53) The measures are part of a series of measures conceived at national level by the Romanian authorities to remedy a serious disturbance in their economy. The importance of the measures to stimulate lending by private banks to enterprises during the COVID-19 outbreak and to preserve employment and economic continuity is widely accepted by economic commentators and the measures are of a scale, which can be reasonably anticipated to produce effects across the entire Romanian economy. Furthermore, the measures have been designed to meet the requirements of specific categories of aid (“*Aid in the form of guarantees*” and “*Aid in the form of subsidised interest rates for loans*”) described in Sections 3.2, 3.3 of the Temporary Framework and the requirements for aid in the form of

guarantees and loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

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

*Measure A: Guarantees on loans*

- The measure sets minimum levels for guarantee premiums that are increasing through time and differ according to the nature of the beneficiary and the actual coverage of the guarantee. In this regard, the table included in recital (26) reflects the fact that coverage can vary between less than 50% of the loan principal to 90%. This variation in coverage, which can be much lower than the maximum 90% allowed by the Temporary Framework, has an impact on the guarantee premiums. The guarantee premiums for SMEs range, depending on the coverage, from 15 to 25 basis points in the first year to 60 to 100 basis points in the years 4 to 6. For large enterprises, the guarantee premiums range, depending on the coverage, from 30 to 60 basis points in the first year, to 120 to 200 basis points in the years 4 to 6. The Romanian authorities have thus modulated the level of the guarantee premiums to take into account the reduced coverage of the guarantees for each loan (recitals (26) and (27)). The Commission considers that these levels appropriately reflect the impact of the reduced coverage of the guarantee. It therefore complies with the guidance provided in point 25(b) of the Temporary Framework.
- Guarantees may be granted under the measure by 31 December 2020 at the latest (recital (12)). The measure therefore complies with point 25(c) of the Temporary Framework.
- For loans with a maturity until or 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 (recitals (18) and (19)). Specifically, the Commission considers that the reference to the liquidity needs under point 25(d)(iii) of the Temporary Framework is proportionate in the present case, since the justification provided in recital (19) is in connection with the characteristics of certain type of undertakings, and because the scheme includes a maximum ceiling that is linked to the beneficiary's declared liquidity needs, which will be verified during the application. The Romanian authorities have therefore appropriately justified the use of this alternative option to define the maximum loan amounts. The scheme therefore complies with point 25(d) of the Temporary Framework.
- The measure limits the duration of the guarantees to a maximum of 6 years (recital (25)). Those guarantees cover up to 90% of the loan principal for new loans or up to 50% for existing loans, respectively (recital (21)), and losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the granting authority (recital (23)). Furthermore, when the size of the

loan decreases over time, the guaranteed amount decreases proportionally (recital (24)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to investment and working capital loans (recital (17)). The measure therefore complies with point 25(g) of the Temporary Framework.
- Undertakings already in difficulty on 31 December 2019 are excluded from benefitting from the measure (recital (14)). 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:
  - The financial intermediaries will continue to share the risks involved with the loans as the guarantee is limited to a maximum of 90% or 50% of the loan principal depending on the nature of the loan (recital (21)).
  - For guarantees on new loans, when the guarantees are granted through financial intermediaries, they must commit to charge for the guaranteed loans the standard interest rates applicable for similar loans (loans with a risk profile equivalent to the guaranteed loan) granted by them before the COVID outbreak, preventing indirect aid through higher interest rates on the guaranteed loans imposed to the beneficiaries (recital (20)).
  - For guarantees on existing loans, non-performing loans are excluded (recital (17)), and the financial intermediaries must commit to maintain or improve the original conditions of the loans eligible to the guarantee, as compared to the conditions that the beneficiary would have normally received in the absence of the guarantee (recital (20)).
  - Finally, all financial intermediaries active in Romania have access to the measure, leaving the possibility for the beneficiary undertakings to seek for the best conditions for their credit operations in a competitive manner (recital (15)). This also applies to the commercial arm of EximBank because there is no privileged access to the measure on its side when compared to other commercial banks operating in Romania. In this regard, the Romanian authorities confirm that EximBank-DFGANCS will act in full independence from the commercial arm and with the necessary safeguards to clear any possible conflict of interest in the administration of the measures. They also confirm that EximBank-DFGANCS applies the same standards, eligibility criteria and procedures for EximBank's commercial arm as for any other commercial bank's clients (recitals (8) and (9)).

The safeguards thus 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 points 28 to 31 of the Temporary Framework.

- The cumulation rules set out in point 24bis of the Temporary Framework are respected (recital (39)).
- 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 (28)).

*Measure B: Subsidised interest rates for loans*

- The applicable interest rates for loans granted under the measure are composed of a base rate and a credit risk margin. The credit margin is set in accordance with point 27(a) of the Temporary Framework at least at 25 basis points for the 1st year, 50 basis points for the 2nd and 3rd years and 100 basis points for the 4th year for SMEs and 50 basis points for the 1st year, 100 basis points for the 2nd and 3rd years and 200 basis points for the 4th year for large enterprises (recital (32)). The base rate is set using variable rate 3-month ROBOR when interest is due<sup>14</sup>, with the 1-year ROBOR applicable on the date of the notification, i.e. 17 June 2020, as foreseen in point 27(a) of the Temporary Framework, as a floor. Therefore, for the entire duration of the loan, the applicable interest rates will be at least equal to the 1-year ROBOR applicable on 17 June 2020 plus the credit risk margins as set out above. 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 a maximum of 6 years (recitals (12) and (29)). The measure therefore complies with point 27(c) of the Temporary Framework.
- For loans with a maturity until or beyond 31 December 2020, the maximum loan amount per beneficiary is limited in line with points 27(d) of the Temporary Framework (recitals (30) and (31)). Specifically, the Commission considers that the reference to the liquidity needs under point 27(d)(iii) of the Temporary Framework is proportionate in the present case, since the justification provided in recital (31) is in connection with the characteristics of certain type of undertakings, and because the scheme includes a maximum ceiling that is linked to the beneficiary's declared liquidity needs, which will be verified during the application. The Romanian authorities have therefore appropriately justified the use of this alternative option to define the maximum loan amounts. The scheme therefore complies with point 27(d) of the Temporary Framework.

---

<sup>14</sup> Market practice regarding fixed or variable interest rates differs widely among Member States. Since variable interest rates linked to ROBOR 3 months are quite common in Romania, the Romanian authorities have decided to link their interest rate to ROBOR 3 months, while setting up an absolute floor in accordance with the Temporary Framework (1-year ROBOR of the date of the notification + credit margins included in 27(a)). This floor is the relevant parameter for the compatibility assessment, since the interest rates established in point 27(a) are a minimum: “*The loans may be granted at reduced interest rates which are at least equal [...]*”.

- Loans granted under the measure relate to investment and working capital needs (recital (29)). The measure therefore complies with point 27(f) of the Temporary Framework.
- Undertakings already in difficulty on 31 December 2019 are excluded from benefitting from the measure (recital (14)). The measure therefore complies with point 27(g) of the Temporary Framework.
- The cumulation rules set out in point 26bis of the Temporary Framework are respected (recital (39)).
- 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 financial intermediaries may exclusively charge processing and monitoring fees to the beneficiaries for the loans provided by EximBank-DFGANCS, either via on-lending or risk-sharing agreements (recital (34)).
  - Finally, all financial intermediaries have access to the measure, leaving the possibility for the beneficiary undertakings to seek for the best conditions for their credit operations in a competitive manner (recital (15)). This also applies to the EximBank’s commercial arm following the reasoning developed for Measure A.

The safeguards thus 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 points 28 to 31 of the Temporary Framework.

- (55) For both measures, the Romanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (41)). The Romanian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (36) to (39)).
- (56) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

#### **4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU**

- (57) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (“BRRD”)<sup>15</sup> in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of

---

<sup>15</sup> OJ L 173, 12.6.2014, p. 190-348.

that Regulation, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of the BRRD.

- (58) 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.<sup>16</sup> 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.
- (59) Moreover, as indicated in recital (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.
- (60) The Commission therefore concludes that the measure does not violate any intrinsically linked provisions of the BRRD.

## 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.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

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**

---

<sup>16</sup> Points 6 and 29 of the Temporary Framework.