



## EUROPEAN COMMISSION

Brussels, 15.10.2020  
C(2020) 7206 final

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| <p>In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...]</p> | <p>PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p> |
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**Subject: State Aid SA. 58531 (2020/N) – Romania**  
**COVID-19: State aid scheme for commercial trade credit risk guarantee**

Excellency,

### 1. PROCEDURE

- (1) On 31 August 2020, the Romanian authorities informed the Commission about a mechanism to provide State guarantees to trade credit insurers established in Romania in order to limit the risks associated with trade credit insurance, provided in return for a commitment given by those trade credit insurers to maintain the existing trade credit insurance limits.
- (2) By electronic notification of 6 October 2020, Romania notified a measure in the form of State guarantees (“the measure”) pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”).
- (3) Romania exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958<sup>1</sup> and to have this decision adopted and notified in English.

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

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## 2. DESCRIPTION OF THE MEASURE

- (4) Romania considers that the COVID-19 outbreak has affected the real economy and that the extreme contraction or even collapse in the economic activity and trade due to the COVID-19 outbreak may soon generate significant liquidity gaps for a large number of non-financial corporations. Liquidity being a key risk driver in credit worthiness assessment, the Romanian authorities expect a crunch in corporate borrowing opportunities and credit limits covered by credit insurance companies, even for borrowers with acceptable solvency.
- (5) The Romanian authorities report that a severe shock has hit the economy in May (i.e. industrial production decreased by 30.6% and exports by 40% in May 2020 compared to May 2019). Although the situation has improved by June compared to April, the Romanian authorities consider that developments related to COVID-19 continue to generate unprecedented uncertainties and major risks to the outlook for economic activity and for the functioning of financial markets, with an impact on macroeconomic stability and financial stability.
- (6) Romania considers that trade credit insurance is particularly important for Romanian companies. The Romanian economy has the lowest degree of bank penetration in the EU, therefore trade credit insurance fulfils an important function by allowing seller and buyers to defer payment on trades, reducing thereby liquidity needs. The Romanian authorities consider that, as a result of the COVID-19 pandemic, the risk arising from trade credit coverage increases significantly and is not insurable, partially or fully, by the trade credit insurers according to their usual underwriting principles.
- (7) The measure forms part of an overall package of measures adopted by the Romanian authorities and aims 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. In particular, its objective is to ensure that trade credit insurance services continue to be available to all companies of the real economy so that buyers of goods or services avoid paying in advance for goods or services, creating immediate liquidity needs, and that seller or service providers can continue to market their products.
- (8) The measure is based on Article 107(3)(b) TFEU to remedy a serious disturbance of the economy. The Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework")<sup>2</sup> is not applicable, because guarantees on credit insurance activities are not covered therein. However, the measure is designed in analogy to the principles set out in the Temporary Framework.

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<sup>2</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1-9), as amended on 3 April 2020 (OJ C 112I, 4.4.2020, p. 1-9), on 8 May 2020 (OJ C 164, 13.5.2020, p. 3-15) and on 29 June 2020 (OJ C 218, 2.7.2020, p. 3-8).

### **2.1. The nature and form of the measure**

- (9) The measure takes the form of capped portfolio guarantees granted to the participating trade credit insurers for the coverage of the losses related to insured eligible trade credit portfolios.

### **2.2. Legal basis**

- (10) The legal basis for the measure is the “Government Emergency Ordinance for the approval of the State aid scheme in order to support the companies’ access to trade credit for relaunching the economy of Romania” (*Ordonanță De Urgență privind aprobarea Programului de susținere a accesului companiilor la creditul comercial, precum și a Schemei de ajutor de stat asociată acestuia*).

### **2.3. Administration of the measure**

- (11) Fondul Român de Contragarantare SA (“FRC SA”), the Romanian counter-guarantee fund, is responsible for administering the measure on behalf of the Romanian Ministry of Economy, Energy and Business Environment (MEEBE). MEEBE and FRC SA will conclude an agreement for the implementation of the measure which will establish the rights and obligations of both parties.
- (12) The measure will be implemented by way of guarantee agreements between FRC SA and the participating trade credit insurers. These guarantee agreements have not been concluded yet.

### **2.4. Relevant context of the measure**

- (13) Trade credit insurance is a risk management product offered to all types of companies wishing to protect their accounts receivable from losses due to credit risks. In the absence of such products, sellers of goods or services may ask buyers to switch to paying in advance or at the time of delivery. It would have a direct impact on the ability of sellers to continue their business as usual. It would also have an indirect impact on the liquidity requirements of buyers up to a point where business activities may cease if liquidity were to be unavailable or too costly. This again would hurt suppliers. Hence, any reductions in limits of insurance coverage or sudden withdrawal of such coverage, would further weaken the resilience of the economy in the face of the COVID-19 outbreak.
- (14) An important function of the trade credit products that insurers offer to the policy holders (the sellers of goods or providers of services) lies in the capacity of the insurers to constantly monitor the creditworthiness of buyers and immediately alert the policyholder of a deterioration of this creditworthiness. In the event of a creditworthiness downgrade of a buyer, under an ongoing insurance framework contract the credit insurance can thus immediately reduce the limit assigned to that buyer, up to the point that the buyer could be asked for an up-front payment. In normal times, this risk-monitoring function is relevant for policyholders, since in all trade credit insurance contracts, the policyholder still retains at least 5% of the amount of receivables on their own risk.
- (15) At the end of 2019, the total amount of outstanding trade credit limits of the main Romanian private trade credit insurers was around RON 25 billion (EUR 5.2 billion). About [...] Romanian companies use trade credit insurance to insure trade credit provided to [...] companies, which account for approximately 80% of

turnover of all Romanian companies. The Romanian authorities report that the trade credit market has contracted by approximately 10% by end of May 2020 due to the effect of the COVID-19 pandemic. Premiums collected in 2019 amounted to RON [100-150 million]. The ratio of losses to premiums has been around 43% in 2019 and is expected to increase to around 100% in 2020 and 2021.

- (16) Under the present circumstances, given the abrupt deterioration of economic activity and the fear of an overall deterioration of creditworthiness, the Romanian authorities estimate that the trade credit insurers would have to drastically reduce or completely withdraw trade credit limits without the measure. Such a reduction of limits would further reduce economic activity by aggravating the liquidity situation of companies.

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

- (17) The measure is open to all trade credit insurers legally authorised to operate in Romania that were not already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>3</sup> on 31 December 2019. The Romanian authorities estimate that maximally ten trade credit insurers could participate in the measure. The Romanian authorities have already confirmed that the [...] largest Romanian trade credit insurers, which together hold 99% of the market, would participate in the measure.
- (18) The measure covers trade credits provided to any buyer of goods, services or works, which is a Romanian or foreign legal entity, legally incorporated, governed by private law, and which:
  - (a) is not subject to any arrangement with creditors procedure or insolvency proceedings, opened at its initiative, or at the request of any third creditor; and
  - (b) its activities were not suspended upon its request or on the basis of the decision issued by specialised bodies/authorities/institutions public/courts on the date on which the insured company/policyholder, from which it bought the goods or services, concluded the insurance contract with the participating trade credit insurer.

## **2.6. Budget and duration of the measure**

- (19) The budget of the measure is RON 500 million (EUR 103 million).
- (20) Support under the measure may be granted as of the date of its approval by the Commission, until 31 December 2020. The measure will concern exclusively insurance contracts active on 1 July 2020 and newly concluded contracts starting from 1 July 2020, during the period from 1 July 2020 to 31 December 2020.
- (21) The measure will concern exclusively risks arising from short-term trade credit up to 360 days granted by insurance policyholder to a buyer in connection with

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<sup>3</sup> As defined in Article 2(18) of the 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.

deliveries carried out between 1 July 2020 and 31 December 2020. The claims for payment under the measure can be submitted no later than 31 December 2022, following the exhaustion of the amicable recovery procedure performed by the participating trade credit insurers.<sup>4</sup>

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

- (22) The capped guarantees will be granted in the name and on behalf of the Romanian State to the trade credit insurers participating in the measure. The guarantees will cover their losses related to insured eligible trade credit portfolios. The guarantees will cover up to 80% of the value of trade credits insured by the participating trade credit insurers in connection with the deliveries carried out in the period described in recital (21).
- (23) In any event, the maximum amount paid under the measure to each participating trade credit insurer will not exceed the ceiling allocated to it on the basis of its market share, in terms of premiums received, as of 30 June 2020.
- (24) As a remuneration for the guarantee, the participating trade credit insurers will pay to the Romanian State a proportional share of the insurance premiums, calculated by applying the guarantee percentage share – *i.e.*, 80% – to their insurance premiums collected between 1 July 2020 and 31 December 2020. Accordingly, participating trade credit insurers shall retain 20% of the insurance premiums they received in the same period, to cover their share of the risk.
- (25) Romania submits that, by retaining an amount of 20% of losses in case of default, participating trade credit insurers will still have an incentive to provide an individualised credit risk assessment of purchasers in a market logic, a function that is also vital for policyholders who also participate in potential losses.
- (26) Participating credit insurers are able to deduct from the premiums paid to the State, an amount covering origination and management costs, corresponding to 35% of those premiums according to Romania.<sup>5</sup>
- (27) In exchange for the guarantee, participating trade credit insurers commit to maintain their existing trade credit limits at least up to their level at 30 June 2020. They may only deviate from this commitment on a case-by-case basis towards each individual buyer based on their internal risk assessment policies. This means that no mass actions or linear measures at portfolio level or at sector level are allowed. A participating trade credit insurer can only reduce trade credit limits:
  - (a) if the buyer is subject to insolvency risk;
  - (b) if the non-payment of an invoice was reported to the participating trade credit insurer, which led to a claim covered by the respective insurance contract and that cannot be settled otherwise;

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<sup>4</sup> To the extent that the measure concerns agricultural products within the meaning of Annex 1 to the WTO Agreement on Agriculture, then as regards such products, the measure must comply with any relevant requirements of paragraph 15 of the WTO Ministerial Decision on Export Competition of 19 December 2015 (WT/MIN(15)/45 — WT/L/980) on maximum repayment term and self-financing.

<sup>5</sup> The overall share of the premium volume that the State receive is thus equal to 52% (80% \* 65%).

- (c) if the policyholder has not used or has only partially used the credit limit offered in relation to the buyer (due to the policyholder's turnover reduction or other reasons) in the last 12 months;
  - (d) for the violation of general and principled provisions expressly provided in the trade credit insurance contracts, such as the non-payment of premiums or transactions that violate sanctions.
- (28) The Romanian authorities set up a reporting mechanism to monitor the compliance of the participating trade credit insurers with the principles laid out in guarantee agreements. The participating credit insurers must report to FRC SA information on outstanding limits per policyholder on a monthly basis and information on the collected premium volumes on a quarterly basis. The Romanian authorities have the right to request from the participating trade credit insurers all the necessary documents and information at any time during the duration of the measure to verify whether a payment of the covered losses is eligible.
- (29) Romania considers that the requirement for participating trade credit insurers to transfer at least 80% of the premiums, excluding the share of origination and management costs amounting to 35%, to the Romanian State in return for a guarantee is an important contribution. Romania also explains that the measure removes risks from the portfolios of the participating trade credit insurers, in exchange of their commitment not to reduce the existing trade credit limits. Trade credit insurers can usually manage their risk effectively by adjusting insurance limits for a given buyer for future trades as an immediate reaction to sudden credit risk changes as well as to their own capacity to bear risk going forward. The participating credit insurers' commitment to refrain from using their normal risk adjustment techniques for the sake of a wider policy consideration – *i.e.*, avoiding the drastic reduction of credit limits – requires that they receive a partial guarantee on exposures in exchange.

## **2.8. Monitoring and reporting**

- (30) Romania will publish information on the measure, specifying all applicable conditions, on the official website of FRC SA and MEEBE. At the latest on 31 December 2021, the Romanian authorities will provide a report to the Commission outlining how the measure was implemented and confirming that the conditions under which the State guarantee is granted have been respected by FRC SA and by the participating trade credit insurers.

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

- (31) 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**

- (32) 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.

- (33) The measure is imputable to the State, since it is granted by the Romanian Counter-Guarantee Fund FRC SA on behalf of the Romanian State. It is financed through State resources, since it is financed by public funds, i.e. by the funds of the MEEBE and ultimately by the funds of the Romanian State.
- (34) The measure confers an advantage on the participating credit insurers as direct beneficiaries but entails design features to ensure that the advantage is as much as possible passed on to the wider economy. The measure removes risks from the portfolios of the participating insurers, in exchange of their commitment not to reduce the existing credit limits subject to limited exceptions as described in recital (27). Therefore, the measure allows participating trade credit insurers to operate in an improved economic environment, as compared to the market conditions that would prevail absent that measure.
- (35) The measure also confers an indirect economic benefit on the real economy for the policyholders and their debtors (buyers). Trading sellers will be able to continue using trade credit insurance without a reduction of the credit limits that would follow if the trade credit insurers were to set limits according to their usual underwriting principles in the face of continuing unprecedented uncertainties and major risks to the outlook for economic activity and for the functioning of the financial markets (see recital (5)). The commitment not to reduce limits will avoid that buyers are faced with a demand for advance payment, adding to their existing liquidity crunch. In that way the measure also provides positive secondary effects to the wider economy.
- (36) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular participating trade credit insurers.
- (37) The measure is liable to distort competition, since it strengthens the competitive position of the participating trade credit insurers. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (38) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Romanian authorities do not contest that conclusion.

### **3.3. Compatibility**

- (39) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure can be declared compatible with the internal market.
- (40) 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*”.
- (41) By adopting the Temporary Framework, the Commission acknowledged 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”.*

- (42) The measure aims at facilitating trade between companies at a time when the normal functioning of markets, including the trade credit insurance market, is severely disturbed by the COVID-19 outbreak, and that outbreak is affecting the wider economy.
- (43) While the Commission has provided guidance in the Temporary Framework as to when aid under Article 107(3)(b) TFEU can be declared compatible with the internal market in light of the current shock to the economy, the Temporary Framework is not directly applicable to the measure proposed by Romania, as it does not cover guarantee of trade credit insurance.
- (44) Therefore, the measure proposed by Romania has to be assessed based on general criteria for compatibility under Article 107(3)(b) TFEU. However, the Temporary Framework can provide general guidance and its principles can be applied *mutatis mutandis* as far as appropriate.
- (45) The measure applies to overall portfolios of both domestic and export-related transactions within the same guarantee mechanism. The Commission therefore has to assess the overall measure under Article 107(3)(b) TFEU.
- (46) As for any derogation from the prohibition on State aid enshrined in Article 107(1) TFEU, the compatibility exception pursuant to Article 107(3)(b) TFEU provision must be interpreted and applied restrictively. Such a strict application requires taking into account, in particular, the nature and the objective seriousness of the disturbance of the economy of the Member State concerned, on the one hand, and the appropriateness, necessity and proportionality of the aid to address it, on the other. It also requires taking into account the possibly systemic importance and position of the beneficiaries and the sector concerned and any safeguards proposed to avoid undue negative effects on competition and trade between Member States.
- (47) As regards the part of the measure which concerns short-term export-credit risks, the Commission considers that all commercial and political risks associated with exports to the countries listed in the Annex to the Short-term export-credit Communication are temporarily non-marketable at this stage.<sup>6</sup> Consequently, as stated in point 29 of the Communication, there is in principle no obligation for Member States to notify reinsurance of short-term export-credit risks until the end of this year, provided that the conditions in Section 4.3 are respected. Nevertheless, the Commission will also consider the respect of the relevant conditions in the Communication for sake of completeness.

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<sup>6</sup> Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance (OJ C 392, 19.12.2012, p. 1) as amended (OJ C 101 I, 28.3.2020, p. 1).



- (48) For the avoidance of doubt, the Commission notes that the Banking Communication of 2013 (the “Banking Communication”)<sup>7</sup> is not applicable to the measure, as the beneficiaries of the proposed measure are not credit institutions. The Commission considers further that it is also not appropriate to apply the principles of the Banking Communication by analogy to the current situation<sup>8</sup>, because the measure is not intended to address concerns related to financial stability or existing liquidity or solvency needs of the credit insurers. This is because the insurers could simply avoid assuming any further risks that may overburden their capital position by withdrawing existing limits going forward. By incentivising participating credit insurers to uphold limits also in the future, the measure addresses the direct consequences of the COVID-19 outbreak in the real economy. As a result, applying the Banking Communication to the measure would not be appropriate.

### *3.3.1. Appropriateness*

- (49) In order to be appropriate, the aid has to be well targeted to its objective, i.e. in this case to remedy a serious disturbance in the Romanian economy. This would not be the case if the disturbance disappeared in the absence of the measure or if the measure were not appropriate to remedy the disturbance.
- (50) The measure aims at maintaining credit limits by trade credit insurers and indirectly preventing liquidity shortages to companies at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak. The ensuing economic shock is unprecedented and affects demand and supply at the same time. The Commission recognises that this outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States. The measure is one of a series of measures conceived at national level by the Romanian authorities to remedy this serious disturbance in their economy. The importance of the measure to maintain credit limits during the COVID-19 outbreak is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Romanian economy.
- (51) In addition, the measure is also unique as regards the direct beneficiaries and the specificities of the trade credit sector. Trade credit insurers can usually manage their risk effectively by adjusting insurance limits for a given purchaser for future trades as an immediate reaction to sudden credit risk changes as well as to their own capacity to bear risk going forward. Any measure that should have the intended effect needs to take this peculiarity into account, namely that the beneficiaries would not require support, unless they should be convinced to refrain from using their normal risk adjustment techniques for the sake of a wider policy consideration. Avoiding the drastic reduction of credit limits is specifically the wider policy consideration in question here.
- (52) The measure will be effective for the Romanian economy, as it is expected to be applied by at least the largest [...] trade credit insurers active in Romania, which

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<sup>7</sup> Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis (OJ, C 216 of 30 July 2013, p. 1).

<sup>8</sup> See point (26) of the Banking Communication.

account for a combined market share of approximately 99%. In addition, the measure is open to any other trade credit insurer authorised to operate in Romania (recital (17)).

- (53) The Commission considers that the measure will thus allow the policyholders (suppliers) to be able to continue relying on the credit limits as of 30 June 2020 as insurance coverage. This will in turn prevent suddenly increasing liquidity needs for the buyers that would have likely occurred in the absence of the measure, as suppliers would have been forced to demand advance payments.
- (54) Furthermore, the Commission accepts that the serious disturbance in the Romanian economy due to the effects of the COVID-19 outbreak could worsen, if existing trade credit insurance limits were to be fully adapted to the unprecedented uncertainties and major risks to the outlook for economic activity and for the functioning of the financial markets. The impact on liquidity needs for purchasers that would be required to provide advance payments as well as the potential losses spreading on to suppliers would be significant, sudden and widespread across the whole economy. This upholding of existing limits that would otherwise be withdrawn will thus provide systemic stabilisation for the whole economy.
- (55) The Commission notes that in order to benefit from the proposed measure, trade credit insurers have committed themselves to maintain limits as of 30 June 2020, subject to certain exceptions (recital (27) and to monitoring by the Romanian State (recital (28)). The Commission therefore considers that the measure has the intended effect to stabilise the trade credit market in Romania and to avoid large-scale reductions of the current trade credit limits in the face of unprecedented uncertainties and major risk to the outlook for economic activity and the financial markets functioning, avoiding thereby the negative effects which would lead to a significant deterioration of the economic situation in Romania.
- (56) In light of the above, the Commission considers that the measure proposed by Romania is appropriate, because it addresses the current malfunctioning of the credit insurance market with its associated imminent and serious risks of a significant further damage to the real economy of Romania.

### *3.3.2. Necessity*

- (57) In order to meet the compatibility criterion of necessity, the aid measure must in its amount and form be necessary to achieve its objective. That implies that it must be of the minimum amount necessary to reach this objective.
- (58) First, it is important to note the extreme and fully unexpected situation of trade credit insurers. It is inherent to the system of trade credit insurance that the insured delivery of a good or service deviates in time from the moment of payment. It is true that the prediction of credit worthiness of purchasers is the core competency of the insurance providers and is conducted based on complex models, involving numerous parameters. However, the current and unprecedented situation with the sudden widespread economic shock that affects demand and supply at the same time, the sudden increase in the demand for liquidity in the real economy and associated concerns on future credit worthiness of companies, was not predictable, which significantly aggravated the situation of credit

insurers. Until now, the credit insurers have not yet taken any significant de-risking actions and remain thus in this aggravated situation.

- (59) Second, it should be considered that the normal risk remediation technique the trade credit insurers would take in face of the unprecedented uncertainties and in absence of the measure – namely the significant de-risking going forward via reducing limits – is what the measure intends to avoid by implementing clear rules as described in recital (27) to which the participating trade credit insurers must adhere when considering limit reductions. The Commission understands that this measure is conditional upon obtaining the acceptance of those rules, and therefore the requirement to maintain credit limits by the insurers.
- (60) Third, insurers already in difficulty on 31 December 2019 are excluded from participating in the measure and risks related to debtors for which the credit limit had been withdrawn on 30 June 2020 are also excluded. The Commission therefore considers that the measure is limited to the minimum necessary in that it only addresses companies affected by the COVID-19 outbreak.
- (61) Fourth, the measure is limited in time and applies only to risks underwritten between 1 July 2020 and 31 December 2020. As it excludes deliveries and losses that have occurred before 1 July 2020, as described in recital (20), it is limited to events that occurred after the COVID-19 outbreak.
- (62) Fifth, the coverage provided should be seen in relation to the remuneration provided. In return for the guarantee coverage, participating credit insurers will transfer to FRC SA 80% of the insurance premiums collected between 1 July 2020 and 31 December 2020 less a share of up to 35% of those collected insurance premiums to cover their operating costs (recitals (24) and (26)). The remuneration would thus result in the insurers passing on 80% of their profits net of operating cost on their activity for the second half of 2020 to the State even before the materialisation of any losses.
- (63) Finally, the estimated maximum budget of the measure of Lei 500 million (EUR 103 million) represents 2.2% of the total outstanding credit limits of Lei 22.4 billion (EUR 4.6 billion). The estimated maximum budget of the measure represents the estimated maximum losses under the measure and implies an increase in losses by over 10 times in comparison to 2019<sup>9</sup>. In light of the current uncertainties, it cannot be excluded that such a significant increase in losses may be expected given the unprecedented economic impact of the COVID-19 outbreak. Therefore, the Commission considers a threshold of this magnitude as justified.
- (64) It should also be taken into account that the measure is in any case contingent upon actual losses in the real economy and will only be utilised in an exceptional situation. In the current unprecedented situation, any estimates of future economic activity and the evolution of insolvencies are still fraught with a high degree of uncertainty beyond the limits of traditional financial modelling. At this stage of the COVID-19 crisis, a quantification of default probabilities in the real economy is still difficult and subject to large variations. With this in mind, the Commission considers that the maximum amount of losses estimated to be Lei 500 million is

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<sup>9</sup> Losses in 2019 amounted to ca. RON 45 million (4% \* RON 105 million, see recital (15)).

calibrated to address the factual and unprecedented uncertainties in which insurers are operating and which requires a coverage also of less likely scenarios. The amount therefore appears justified to reach the intended result, namely to stabilise the trade credit insurance activity and to avoid negative effects leading to widespread reduction or cancellation of trade credit insurance limits of the real economy.

- (65) Based on the above, it can be concluded that the measure is limited to the minimum amount and form necessary to achieve the objective pursued. No less distortive instrument is available that would be as effective.

### *3.3.3. Proportionality*

- (66) The positive effects of the measure must be properly balanced against the distortions of competition, in order for the distortions to be limited to the minimum necessary to reach the measure's objectives.
- (67) The measure is designed in a way to keep market forces working under the safety net provided. By sharing losses and premiums, it is excluded that the participating private credit insurers conduct an adverse selection and transfer only bad risks to the State.
- (68) This model of sharing risks and return also ensures that the vital function of credit risk assessment provided by the industry is upheld. By retaining a significant amount of risk, the insurers still have an incentive to provide an individualised credit risk assessment of purchasers – a function that is also vital for policyholders who also participate in potential losses. It therefore appears that the chosen model is well justified as a methodology that effectively limits State intervention while still providing the envisaged result that would not be achievable as an outcome of pure market forces alone.
- (69) As already considered in recital (44) above, the Temporary Framework – although not directly applicable – serves as a reference point to identify relevant principles to assess the proportionality of the measure.
- (70) The measure requires participating trade credit insurers to retain risk exposures and ensures that the State does not cover proportionally more than 80% of the losses, as described in recital (22). Such State coverage is below the threshold of 90% provided for in point 25(f)(i) of the Temporary Framework.
- (71) The guarantee premium to be paid amounts to 80% of the premiums net of operating costs, charged by the trade credit insurers between 1 July 2020 and 31 December 2020. Based on 2019 figures, this would amount to a total guarantee premium of approximately Lei [1-50 million]<sup>10</sup> to be paid to the State. This amounts to more than [1-10]% of the total budget of the measure, i.e. guarantee volume, of Lei 500 million, which is significantly above the minimum premiums of 0.25% and 0.5% as defined in point 25(a) of the Temporary Framework for a one-year guarantee protection.

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<sup>10</sup> Amount corresponding to 52% of the RON [50-100 million] of premiums collected for the period 1 July 2020 – 31 December 2020.

- (72) Based on the points above, the Commission considers that the measure proposed by Romania ensures a participation of trade credit insurers that is at least as strict as the one foreseen in the Temporary Framework. .
- (73) As regards the underlying logic of point (31) of the Temporary Framework, namely that any advantage of aid should be passed on to the economic operators in the real economy directly affected by the current shock to the largest extent possible, the following should be considered:
- (74) First, in order to benefit from the proposed measure, insurers have to commit to keep available the insurance limits of their policyholders as described in recital (27).
- (75) Second, the measure is open to all trade credit insurers legally authorised to operate in Romania (recital (17)). This will safeguard competition between these providers and therefore provide an additional lever to ensure that benefits are channelled through to the real economy to the largest extent possible.
- (76) Third, participating credit insurers are also retaining a significant part of the losses under the measure (recital (22)). That design ensures that the insurer's decision-making process incorporates economic considerations and is not detached from a market logic. This ensures an overall risk monitoring by the insurers, and is in line with the intention of section 3.2 of the Temporary Framework.
- (77) Based on the above, the Commission considers that the measure as proposed by Romania is proportionate to reach the intended goal while minimising the distortive effects on competition.

#### *3.3.4. Conclusion on compatibility*

- (78) Based on the above considerations, the Commission concludes that the measure is compatible under Article 107(3)(b) TFEU.

#### *3.3.5. Short-term export-credit Communication*

- (79) Following the amendment to the Short-term export-credit Communication of 28 March 2020, the Commission considers all countries currently as non-marketable or as temporarily non-marketable risk countries.
- (80) In as far as the measure covers export-credit insurance with a risk period of less than two years that may fall under the Short-term export-credit Communication, the Commission notes that the quality of cover will be consistent with market standards, as it will remain the one offered by the private insurers in normal conditions.
- (81) The Commission notes that the measure is temporary in nature as it only covers trade credit provided before 31 December 2020 with the aim to remedy the disturbance caused by the COVID-19 outbreak in the trade credit insurance market in Romania. The measure is therefore designed to keep the credit insurance available in the Romanian economy within the pre-crisis limits to the largest possible extent.

- (82) The cover is accessible to all commercial insurers in Romania in an open, transparent and non-discriminatory manner (recital (17)). The measure essentially allows the market to remain as it was for all private insurers, with respect to all short-term credits and for all Romanian policyholders. In that regard, the reinsurance is being offered on a large scale to all types of risks, including a significant number of creditworthy buyers with clean claims record and good financial ratings. The remuneration resulting from the risk and premium sharing is therefore justified and adequate in light of objective of the measure to preserve the existing credit insurance limits available for a limited period of time to the real economy in Romania.
- (83) On the basis of the above and in view of the principle set out in point 31 of the Short-term export-credit Communication, the Commission considers that the measure fulfils the requirements of the Short-term export-credit Communication in as far as it is applicable.

#### **4. 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) TFEU.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Greffe  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President

