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EU adopts Temporary State aid Framework in response to COVID-19

The European Commission has adopted a Temporary State Aid Framework to increase Member States’ ability to support their economies in the light of the COVID-19 pandemic. It did the same thing in 2008 as a response to the global financial crisis.

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Please note: the information contained in this legal update is correct as of the original date of publication

The European Commission has adopted a Temporary State Aid Framework to increase Member States’ ability to support their economies in the light of the COVID-19 pandemic. It did the same thing in 2008 as a response to the global financial crisis.

The Temporary Framework works along the existing State aid rules and its aim is to help ensure that adequate liquidity remains available to all types of businesses and to enable economic activity to continue both during the COVID-19 pandemic and afterwards. The Temporary Framework will be in place until the end of this year and the Commission take a view before then as to whether it should be extended.

Member States may continue to provide various types of assistance that fall outside the State aid rules, both to businesses and other sectors, as the Commission noted in its Communication on a Coordinated economic response to the COVID-19 outbreak on 13th March. These include additional assistance for public services but also through introducing measures that are available to all businesses e.g. wage subsidies, suspension of payments of corporate tax and VAT or national insurance. In addition, financial support directly to individual consumers does not count as State aid.

The current State aid rules also allow Member States to grant compensation to businesses companies for damage directly caused by exceptional circumstances - and the COVID-19 pandemic counts as exceptional circumstances. This obviously is particularly useful to enable support to sectors such as aviation - and transport more generally, tourism and retail.

Member States are also seeking specific approval from the Commission for schemes to help businesses. The UK Government, for example, is doing so for its proposals to assist the retail sector business rates discount. However, there are five types of aid that are specifically and additionally permitted under the Temporary Framework and these are summarised as follows:

1. **Direct grants, selective tax advantages and advance payments**
   Member States can set up schemes to grant up to €800,000 to a business to address its urgent liquidity needs. The business must not have been in difficulties on 31st December 2019. The limit is €120,000 for businesses in the fisheries or aquaculture sectors and €100,000 for those in the primary production of agriculture products - other conditions also apply to these.

2. **State guarantees for loans taken by companies from banks**
   Member States will be able to provide State guarantees with a maximum term of 6 years to ensure banks keep providing loans to the customers who need them. Minimum guarantee premiums are set out, with lower levels for SMEs. Up to 90% of the loan principal may be guaranteed where losses are sustained proportionally and under same conditions, by the credit institution and the State or up to 35% of the loan principal, where losses are first attributed to the State and only then to the credit institutions. In either case, when the size of the loan decreases over time, the guaranteed amount must decrease proportionally.
   There are limits on the amount of loan that may be guaranteed, depending on the term of the loan. The business must not have been in difficulties on 31st December 2019.

3. **Subsidised public loans to companies**
   Member States will be able to grant loans with lower than market interest rates to companies and these are set out in a table in the Temporary Framework, with SMEs able to benefit from even lower rates than large enterprises. The business must not have been in difficulties on 31st December 2019.

   The loans are limited to a maximum 6 years. Where they mature after the end of this year, the maximum loan must not exceed: (a) the double of the annual wage bill of the recipient for 2019 or the last year available; or (b) 25% of the total turnover of the recipient in 2019; or (c) the appropriate amount based on the recipient's liquidity needs. Loans may be increased to cover the liquidity needs of SMEs for 18 months from the date of the loan or 12 months for large enterprises. Where loans mature before the end of the year, the amount of the loan may be higher than for longer loans if justified and proportionate.

4. **Safeguards for banks that channel State aid to the business economy**
   Some Member States may use banks etc. to provide cheaper loans and guarantees rather than doing it directly. This will be permitted and viewed as aid to the banks' customers, not to the banks themselves, The banks must, to the largest extent possible, pass on the advantages of the public guarantee or subsidised interest rates to the end recipients to ensure minimal distortion of competition between banks.

5. **Short-term export credit insurance:**
   There is additional flexibility on how to demonstrate that some countries are not-marketable risks, thus enabling short-term export credit insurance to be provided by the State where needed.

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