



EUROPEAN COMMISSION

Brussels, 4.5.2020
C(2020) 2999 final

SENSITIVE* : *COMP Operations*

Subject: State Aid SA.57185 (2020/N) – Italy
COVID-19: Loans provided by ISMEA in favour of undertakings of the agricultural and fishery sector affected by the COVID-19 outbreak

Excellency,

1. PROCEDURE

- (1) By electronic notification of 28 April 2020, Italy notified aid in the form of interest free loans “Loans provided by ISMEA in favour of undertakings of the agricultural and fishery sector affected by the COVID-19 outbreak (“the scheme”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).¹
- (2) The Italian authorities confirm that the notification does not contain confidential information.
- (3) Italy 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 1/1958,² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE SCHEME

- (4) Italy considers that the COVID-19 outbreak has started to affect the real economy. The scheme forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

¹ 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.

² 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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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.

- (5) The compatibility assessment of the scheme is based on Article 107(3)(b) of the TFEU, as interpreted by Section 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (6) The scheme provides aid in the form of interest free loans.

2.2. National legal basis

- (7) The legal basis for the scheme is the ISMEA deliberation n. 19 of 23 April 2020 and its annex, as amended.

2.3. Administration of the scheme

- (8) The Institute of Services for the Agricultural and Food market (*Istituto di Servizi per il Mercato Agricolo Alimentare - ISMEA*)³ is responsible for administering the scheme.

2.4. Budget and duration of the scheme

- (9) The maximum nominal amount of loans under the scheme will not exceed EUR 30 million.
- (10) Aid may be granted under the scheme as from its approval until 31 December 2020.

2.5. Beneficiaries

- (11) The final beneficiaries of the scheme are small and medium sized enterprises (SME)⁴ active in Italy in the agricultural, fishery and aquaculture sectors. However, financial institutions are excluded as eligible final beneficiaries.
- (12) Aid may not be granted under the scheme to undertakings that were already in difficulty within the meaning of the Agricultural Block Exemption Regulation

³ ISMEA is a national economic public body subject to the supervision of the Italian Ministry of Agricultural, Food and Forestry Policies. According to its statute, ISMEA can provide loans to enterprises operating in the agriculture, forestry and fishery and aquaculture sectors.

⁴ 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, and 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 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.

(“ABER”)⁵ or the Fishery Block Exemption Regulation (“FIBER”)⁶ on 31 December 2019.

- (13) Aid is granted under the scheme directly by ISMEA

2.6. Sectoral and regional scope of the scheme

- (14) The scheme is open to SMEs active in the agricultural, fishery and aquaculture sectors. It applies to the whole territory of Italy

2.7. Basic elements of the scheme

- (15) The scheme provides aid to the eligible beneficiaries in the form of interest free loans under Section 3.1 of the Temporary Framework.
- (16) The amount of the loan per undertaking does not exceed EUR 30 000.
- (17) The maximum loans' maturity is set at five years. This duration includes a grace period of 24 months.
- (18) The loan agreements are signed no later than on 31 December 2020.
- (19) Aid to undertakings active in the processing and marketing of agricultural products will not be partly or entirely passed on to primary producers nor will it be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by those undertakings.
- (20) Aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market.
- (21) Aid to undertakings active in the fishery and aquaculture sectors will not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014⁷.

2.8. Cumulation

- (22) The Italian authorities confirm that aid granted under the scheme may be cumulated with aid under *de minimis* Regulations⁸ or the ABER and the FIBER, provided the cumulation of those Regulations are respected.

⁵ As defined in Article 2(14) of the 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.

⁶ As defined in Article 3(5) of the 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, OJ L 369 of 24 December 2014, p. 37.

⁷ 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 90, 28.6.2014, p. 45).

⁸ 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

- (23) The Italian authorities confirm that aid under the notified scheme may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (24) The Italian authorities confirm that aid granted under the scheme 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.
- (25) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the scheme or aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, shall be respected.

2.9. Monitoring and reporting

- (26) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (*e.g.*, by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.).

3. ASSESSMENT

3.1. Legality of the scheme

- (27) By notifying the scheme before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (28) 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 scheme 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 scheme must distort or threaten to distort competition and affect trade between Member States.
- (29) The scheme is imputable to the State, since it is administered by ISMEA (recital (8)) and it is based on the act mentioned in recital (7). It is financed through State resources, since it is financed by public funds.

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).

- (30) The scheme confers an advantage on its beneficiaries in the form of interest free loans. The scheme thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (31) The advantage granted by the scheme is selective, since it is awarded only to certain undertakings, in particular to SMEs operating in the agricultural and fishery and aquaculture sectors in Italy (recital (11)), excluding the financial sector.
- (32) The scheme is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (33) In view of the above, the Commission concludes that the scheme constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

- (34) Since the scheme involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that scheme is compatible with the internal market.
- (35) 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*”.
- (36) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (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*”.
- (37) The scheme aims at facilitating the access of firms 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.
- (38) The scheme is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the scheme to preserve employment and economic continuity is widely accepted by economic commentators seen that the agricultural and fishery sectors are severely hit by the crisis due to the high perishable nature of the products and the closure of the normal marketing channels. Furthermore, the scheme has been designed to meet the requirements of a specific category of aid (“*Aid in form of direct grants, repayable advances or tax advantages*”) described in Section 3.1 of the Temporary Framework.
- (39) The Commission accordingly considers that the scheme is 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:

- (40) The elements of the notified scheme described in Section 2.7 above, meet all the applicable conditions provided for by Section 3.1 of the Temporary Framework:
- The aid takes the form of interest free loans (recital (15)), as laid down in points 22(a) and 23(a) of the Temporary Framework.
 - As the amount of the loan per undertaking does not exceed EUR 30 000, the overall nominal value of the interest free loans shall not exceed EUR 800 000 per undertaking active in the processing/marketing of agricultural products, all figures used must be gross, that is, before any deduction of tax or other charges. The scheme therefore complies with point 22(a) of the Temporary Framework.
 - The aid is granted under the scheme on the basis of a scheme with an estimated budget as indicated in recital (9). The scheme therefore complies with point 22(b) of the Temporary Framework.
 - The aid will not be granted to undertakings under the scheme that were already in difficulty on 31 December 2019 (recital (12)). The scheme therefore complies with point 22(c) of the Temporary Framework.
 - The aid will be granted under the scheme no later than 31 December 2020 (recital (10)). The scheme therefore complies with point 22(d) of the Temporary Framework.
 - The aid granted to undertakings active in the processing and marketing of agricultural products will not be partly or totally passed on to primary producers, nor fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers (recital (19)). The scheme therefore complies with point 22(e) of the Temporary Framework.
 - As the amount of the loan per undertaking does not exceed EUR 30 000, the overall nominal value of the interest free loans does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products. The scheme therefore complies with point 23(a) of the Temporary Framework.
 - The aid granted to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market (recital (20)). The scheme therefore complies with point 23(b) of the Temporary Framework.
 - Aid granted to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k), of Commission Regulation (EU) No 717/2014 (recital (21)). The scheme therefore complies with point 23(c) of the Temporary Framework.
 - As the loan per undertaking does not exceed EUR 30 000, where an undertaking is active in several sectors, to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, there is not risk that the relevant ceiling for each of these activities and the highest possible total amount of EUR 800 000 or EUR 120 000 are exceeded. The scheme therefore complies with point 23bis of the Temporary Framework.

- (41) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (26)). The Italian authorities further confirm that the aid under the scheme 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 (22) to (25)).
- (42) The Commission therefore considers that the scheme 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. 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.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

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Director of the Registry
EUROPEAN COMMISSION