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Subject: State Aid SA.59723 (2021/N) – Spain
Covid-19 – Fourth amendment to SA.56851 (2020/N) – Umbrella Scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 5 February 2021, Spain notified amendments to the aid scheme SA.56851 (2020/N)[1] ("the Umbrella Scheme"), which the Commission had approved on 2 April 2020 ("the initial Umbrella Scheme Decision"), under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework")[2]. By e-mails of 10, 11 and 17 February 2021, Spain provided further information on the notified amendments.

[1] Commission decision C(2020) 2154 final of 2 April 2020 in case SA.56851 (2020/N) – Spain – COVID-19: National Temporary Framework for State aid in the form of direct grants, repayable advances, tax or payments advantages, guarantees on loans and subsidised interest rates for loans to support the economy (OJ C 144, 30.4.2020, p. 1).

[2] 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), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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(2) The initial Umbrella Scheme Decision was amended by SA.57019 (2020/N) on 24 April 2020[3] ("first amendment to the Umbrella Scheme"), by SA.58778 (2020/N) on 22 October 2020[4] ("second amendment to the Umbrella Scheme") and by SA.59196 (2020/N) on 11 December 2020[5] ("third amendment to the Umbrella Scheme").

(3) The Spanish authorities notified the following amendments :

(a) the incorporation in the Umbrella Scheme of a measure granting aid in the form of support for uncovered fixed costs ("the new measure") (section 2.1 of this Decision); and

(b) a modification to the measure providing aid in the form of limited amounts of aid described in section 2.7.1 of the initial Umbrella Scheme Decision[6] ("the modification") (section 2.2 of this Decision).

(4) Apart from those amendments, the Commission notes that the notification addressed by this Decision envisages no other alterations to the Umbrella Scheme.

(5) Spain 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[7] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

(6) The Spanish authorities consider that the COVID-19 outbreak continues to affect the real economy. Spain's is among the economies most affected since the start of the pandemic, with a notable fall in the GDP in 2020 in relation to 2019. The latest data shows that in the third quarter of 2020 the Spanish economy remains 8.7% below its previous level a year ago, one of the largest contractions in Europe.

(7) Spain has declared a national state of emergency on three separate occasions. First, Spain declared a national state of emergency from 14 March until 21 June

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3 Commission decision C(2020) 2740 final of 24 April 2020 in case SA.57019 (2020/N) – Spain – COVID-19: Second National Temporary Framework for State aid related to the containment of the COVID-19 outbreak (OJ C 158, 8.5.2020, p. 1).

4 Commission decision C(2020) 7455 final of 22 October 2020 in case SA.58778 (2020/N) – Spain – COVID-19: Amendments to SA.56851 (2020/N), Conditions of the guarantees on loans and prolongation (OJ C 376, 6.11.2020, p. 1).

5 Commission decision C(2020) 9222 final of 11 December 2020 in case SA.59196 (2020/N) – Spain – COVID-19: Third Amendment to SA.56851 (2020/N) (Umbrella Scheme) (OJ C 7, 8.1.2021, p. 1).

6 See recitals (15) to (21) of the initial Umbrella Scheme Decision, as amended by the Decisions cited in recital (2) of this Decision.

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

2020, when the movement of citizens and economic activities were severely restricted throughout all Spain. During that first state of emergency a de-escalation plan was approved on 28 April 2020, ending on 21 June 2020. Spain's second state of emergency lasted from 9 October until 24 October 2020 and applied only to nine municipalities of the Community of Madrid. On 25 October 2020, the Spanish government declared a State-wide third state of emergency set to last until 9 May 2021. Under that new state of emergency, Autonomous Communities may impose the measures they deem necessary to tackle the outbreak.

(8) The main restrictive measures imposed by Spain have consisted of limitations of the movement of people in public places during certain periods of the day, restrictions to the entrance and exit of people in certain territories (e.g. Autonomous Communities, Provinces or Municipalities) and limitations in the number of people allowed in public and private spaces.

(9) The tightening of the measures to fight the outbreak in Q4 2020 and Q1 2021 reflects a significant increase in the spread of COVID-19 infections and will have further negative effects on economic activities. Those negative effects are exacerbated by structural features that make Spain's economy vulnerable to disruptions. For example, contact-intensive service sectors like tourism, which accounts for about 12% of the Spanish economy, have been particularly affected by the outbreak and the restrictive measures. Small and medium-sized companies, which typically have fewer financial resources and contribute to over 70% of Spain's employment, are struggling to stay afloat. The widespread use of temporary employment accounted for most of the job losses.

(10) In the first nine months of 2020, companies increased their debt to ensure liquidity and to cover additional needs in the context of the outbreak. Doing so resulted in an increase in the average debt-to-asset ratio, which stood at 43.1% in September 2020, one point higher than the figure recorded in December 2019. The ratio of debt to current results grew from 490% at the end of 2019 to 675% because of the sharp fall in surpluses.

(11) The notified amendments 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.

(12) Spain confirmed that the aid under the notified amendments is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

(13) The compatibility assessment of the notified amendments is based on Article 107(3)(b) TFEU, in light of sections 3.1, 3.4 and 3.12 of the Temporary Framework.

2.1. The new measure

2.1.1. The nature and form of aid

(14) The new measure provides aid in the form of support for uncovered fixed costs by means of direct grants, tax and payment advantages, repayable advances, guarantees, loans and equity.

2.1.2. Legal basis

(15) The legal basis of the new measure is the "*Acuerdo por el que propone la modificación del Marco Nacional Temporal para incluir las ayudas en forma de apoyo por costes fijos no cubiertos e introducir otras modificaciones en coherencia con el Marco Temporal Europeo de Ayudas COVID-19*" of 5 February 2021 of the Spanish government Delegate Commission for Economic Affairs.

2.1.3. Administration

(16) The new measure will form part of the Umbrella Scheme, under which the competent granting authorities, identified as the General State Administration, the Administration of the Autonomous Communities, the entities integrating the Local Administration, and organisations and other public entities linked to or depending on any of the previous authorities, may grant aid.

(17) The Spanish authorities confirm that the measures put in place by the competent granting authorities based on the new measure will respect all conditions of the new measure (such as eligibility conditions, aid intensities and aid instruments). The competent granting authorities will not introduce further conditions other than those provided for by the new measure.

2.1.4. Budget and duration

(18) According to the Spanish authorities, it is difficult to estimate the budget for the new measure given that measures based on it will be adopted at various administrative levels. Therefore, the budget available under the new measure has not been determined yet.

(19) The measures put in place on the basis of the new measure may be co-financed by the European Structural and Investment Funds (ESIF), as amended by the Coronavirus Response Investment Initiative regulations[8]. The Spanish authorities confirm that, where applicable, the rules of those Funds will be respected.

[8] Regulation (EU) 2020/460 of the European Parliament and of the Council of 30 March 2020 amending Regulations (EU) No 1301/2013, (EU) No 1303/2013 and (EU) No 508/2014 as regards specific measures to mobilise investments in the healthcare systems of Member States and in other sectors of their economies in response to the COVID-19 outbreak (Coronavirus Response Investment Initiative) (OJ L99, 31.3.2020, p. 5); and Regulation (EU) 2020/558 of the European Parliament and of the Council of 23 April 2020 amending Regulations (EU) No 1301/2013 and (EU) No 1303/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak (OJ L 130, 23.4.2020, p. 1).

(20) The Spanish authorities commit to provide the Commission with a list of the measures put in place based on the new measure and their corresponding budgets.

(21) Aid may be granted under the new measure as from its approval by the Commission until no later than 31 December 2021.

2.1.5. Beneficiaries

(22) The final beneficiaries of the new measure are undertakings registered in Spain, irrespective of their size. However, financial institutions are excluded as eligible final beneficiaries. Spain estimates that the number of beneficiaries could exceed 100 000.

(23) Aid may not be granted under the new measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[9], the Agricultural Block Exemption Regulation ("ABER")[10] and the Fisheries Block Exemption Regulation ("FIBER")[11] on 31 December 2019.

(24) Aid under the new measure is granted either directly or through credit institutions and other financial institutions as financial intermediaries.

2.1.6. Sectoral and regional scope

(25) The new measure is open to all sectors except the financial sector. It applies to the whole territory of Spain.

2.1.7. Basic elements of the new measure

(26) The objective of the new measure is to mitigate the negative effects of the COVID-19 outbreak on the Spanish economy. It seeks to cover part of the uncovered fixed costs, within the meaning of section 3.12 of the Temporary Framework, of those undertakings for which the outbreak resulted in the suspension or reduction of their business activity. The aid has the following features:

   (a) The aid will be granted no later than 31 December 2021 and will cover uncovered fixed costs incurred during the period between 1 March 2020 and 31 December 2021, including such costs incurred in part of that period ("the eligible period").

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9 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, 26.6.2014, p. 1.

10 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, 1.7.2014, p. 1.

11 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 of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

(b) The aid will be granted on the basis of a scheme. It will be granted to undertakings that suffer a decline in turnover during the eligible period of at least 30% compared to the same period in 2019. That reference period is a period in 2019 irrespective of whether the eligible period is in 2020 or in 2021.

(c) Uncovered fixed costs are the fixed costs incurred by undertakings during the eligible period which are not covered by the profit contribution (i.e. revenues minus variable costs) during the same period and which are not covered by other sources, such as insurance, temporary aid measures covered by the Temporary Framework or support from other sources. The losses of undertakings from their profit and loss statements during the eligible period[12] are considered to constitute uncovered fixed costs.

(d) The aid intensity will not exceed 70% of the uncovered fixed costs, except for micro and small companies (within the meaning of Annex I to the GBER), where the aid intensity will not exceed 90% of the uncovered fixed costs.

(e) The aid under the new measure may be granted based on forecasted losses, while the final amount of aid will be determined after realisation of the losses on the basis of audited accounts or, for undertakings that are not required to produce audited accounts, on the basis of tax accounts. The Spanish authorities explained that not all undertakings in Spain are required by law to produce audited accounts. The Spanish authorities consider that it would not be proportionate to require those undertakings to produce audited accounts solely for the purpose of obtaining aid under the new measure. Any payment exceeding the final amount of the aid will be recovered.

(f) The overall aid will not exceed EUR 10 million per undertaking. The aid will be granted in the form of direct grants, tax and payment advantages, repayable advances, guarantees, loans and equity, provided that the total nominal value of such measures remains below the overall cap of EUR 10 million per undertaking. All figures used must be gross, that is, before any deduction of tax or other charge.

(g) The mobilisation of guarantees will be contractually linked to conditions which will be agreed between the parties when the guarantee is initially granted.

(27) Where aid is channelled through credit institutions or other financial institutions, the Spanish authorities confirm that the safeguards described in recitals (24) and (32) of the initial Umbrella Scheme Decision also apply to the new measure[13]. Those safeguards ensure that the advantage brought about by the aid is passed on to the largest extent possible to the final beneficiaries.

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[12] One-off impairment losses are not included in the calculation of the losses under this provision.

[13] Those safeguards include giving access to the new measure to all financial intermediaries, enabling competition among them; and setting up additional mechanisms that ensure that the advantage is passed on to the largest extent possible to the final beneficiaries (e.g. reporting obligations).

2.1.8. *Cumulation*

(28) The aid ceilings and cumulation maxima fixed under the new measure will apply regardless of whether the support for aided projects is financed entirely from State resources or partly co-financed by the European Structural and Investment Funds (ESIF).

(29) The Spanish authorities confirm that aid granted under the new measure may be cumulated with aid under *de minimis* Regulations[14] or the GBER, the ABER and the FIBER, provided the provisions and cumulation rules of those Regulations are respected.

(30) The Spanish authorities confirm that aid under the new 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.

(31) The Spanish authorities confirm that aid granted under the new 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.

(32) The Spanish authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the new measure or aid under other measures approved by the Commission under section 3.12 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 87(d) of that framework, will be respected.

(33) The Spanish authorities confirm that aid granted under the new measure will not be cumulated with other aid for the same eligible costs.

2.1.9. *Monitoring and reporting*

(34) The Spanish 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 above EUR 100 000 granted under the new measure and EUR 10 000 in the agricultural and fisheries sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[15]).

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14 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, 26.4.2012, p. 8).

15 Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014. For repayable advances, guarantees, loans and other forms of aid, the nominal value of the underlying instrument will be inserted per beneficiary.

2.2. The modification

(35) On 2 April 2020, the Commission approved the Umbrella Scheme granting inter alia aid in the form of limited amounts of aid ("the existing aid scheme").

(36) Spain seeks to modify the existing aid scheme[16] to allow the channelling of aid under the existing aid scheme through credit institutions or other financial institutions. The Spanish authorities confirm that, in those cases, the safeguards described in recitals (24) and (32) of the initial Umbrella Scheme Decision will also apply to the existing aid scheme[17]. Those safeguards ensure that the advantage brought about by the aid is passed on to the largest extent possible to the final beneficiaries.

(37) The legal basis of the modification is the same as that of the new measure, referred to in recital (15).

(38) The Spanish authorities do not envisage further modifications to the existing aid scheme.

(39) The modification does not concern the other measures addressed under sections 2.7.2 and 2.7.3 of the initial Umbrella Scheme Decision.

3. ASSESSMENT

3.1. Lawfulness of the notified amendments

(40) By notifying the amendments before putting them into effect, the Spanish authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(41) 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.

3.2.1. Existence of State aid concerning the new measure

(42) The new measure is imputable to the State, since it is administered by the competent grating authorities (recital (16)) and it is based on a national legal act (recital (15)). It is financed through State resources, since it is financed by public funds (recital (18)).

(43) The new measure confers an advantage on its beneficiaries in the aid in the form of support for uncovered fixed costs by means of direct grants, tax and payment advantages, repayable advances, guarantees, loans and equity (recitals (14) and

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[16] As amended by the Decisions cited in recital (2) of this Decision.

[17] See footnote 13 above.

(26)(f)). Depending on the form of the aid, the new measure either confers an advantage on those beneficiaries which they would not have had or relieves them of costs which they would have had to bear under normal market conditions.

(44) The advantage granted by the new measure is selective, since it is awarded only to certain undertakings, excluding the financial sector (recital (22)).

(45) The new measure 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.

(46) In view of the above, the Commission concludes that the new measure constitutes aid within the meaning of Article 107(1) TFEU. The Spanish authorities do not contest that conclusion.

3.2.2. Existence of State aid concerning the modification

(47) The existing aid scheme constitutes aid within the meaning of Article 107(1) TFEU for the reasons set out in the initial Umbrella Scheme Decision[18]. The modification does not affect that conclusion. The Commission therefore refers to the respective assessment of the initial Umbrella Scheme Decision and concludes that the existing aid scheme as amended constitutes State aid in the meaning of Article 107(1) TFEU. The Spanish authorities do not contest that conclusion.

3.3. Compatibility

(48) Since the notified amendments involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether they are compatible with the internal market.

(49) 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*".

(50) 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*".

3.3.1. Compatibility of the new measure

(51) The new measure aims at ensuring the continuation of business activity at a time when the normal functioning of 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.

[18] See recitals (40) to (44) of the initial Umbrella Scheme Decision.

(52) The new measure is one of a series of measures conceived at national level by the Spanish authorities to remedy a serious disturbance in their economy. The importance of the new measure to preserve business activity is widely accepted by economic commentators and the new measure is of a scale which can be reasonably anticipated to produce effects across the entire Spanish economy. Furthermore, the new measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of support for uncovered fixed costs*") described in section 3.12 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.

(53) The Commission accordingly considers that the new measure 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:

- Aid is granted under the new measure no later than 31 December 2021 and covers uncovered fixed costs incurred during the period between 1 March 2020 to 31 December 2021 (recital (26)(a)). The new measure therefore complies with point 87(a) of the Temporary Framework.

- Aid is granted under the new measure on the basis of a scheme to undertakings that suffer a decline in turnover during the eligible period of at least 30% compared to the same period in 2019 (recital (26)(b)). The new measure therefore complies with point 87(b) of the Temporary Framework.

- Uncovered fixed costs are defined under the new measure in accordance with point 87(c) of the Temporary Framework (recital (26)(c)). The aid intensity will not exceed 70% of the uncovered fixed costs, except for micro and small companies, where the aid intensity will not exceed 90% of the uncovered fixed costs (recital (26)(d)). The losses of undertakings from their profit and loss statements during the eligible period are considered to constitute uncovered fixed costs (recital (26)(c)). The aid under the new measure may be granted based on forecasted losses, while the final amount of aid will be determined after realisation of the losses on the basis of audited accounts or on the basis of tax accounts. Spain has indicated that the use of tax accounts would be proportionate in cases where undertakings are not required to produce audited accounts under national law. The Commission considers that the Spanish authorities have adequately justified the use of tax accounts to determine the final amount of aid in those cases. Any payment exceeding the final amount of the aid must be recovered (recital (26)(e)). The new measure therefore complies with point 87(c) of the Temporary Framework.

- The aid takes the form of direct grants, tax and payment advantages, repayable advances, guarantees, loans and equity (recitals (14) and (26)(f)). Their overall nominal value will not exceed EUR 10 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (26)(f)). The new measure therefore complies with point 87(d) of the Temporary Framework.

- The aid under the new measure will not be cumulated with other aid for the same eligible costs (recital (33)). The new measure therefore complies with point 87(e) of the Temporary Framework.

- Aid may not be granted under the new measure to undertakings that were already in difficulty on 31 December 2019 (recital (23)). Therefore, the new measure complies with point 87(f) of the Temporary Framework.

- 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 (26)(g)).

- The new 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. Those safeguards are those described in recitals (24) and (32) of the initial Umbrella Scheme Decision and ensure that those institutions, to the largest extent possible, pass on the advantage to the final beneficiaries (recital (27)). The Commission therefore refers to its compatibility assessment in this regard in recitals (53) and (54) of the initial Umbrella Scheme Decision. The new measure therefore complies with points 28 to 31 of the Temporary Framework.

(54) The Spanish authorities confirm that the aid under the new measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (12)).

(55) The Spanish authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (34)). The Spanish authorities further confirm that the aid under the new 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 (28) to (33)).

(56) The Spanish authorities also confirm that the rules applicable under the European Structural and Investment Funds (ESIF), as amended by the Coronavirus Response Investment Initiative regulations, will be respected (recital (19)).

(57) The Commission therefore considers that the new 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.

3.3.2. Compatibility of the modification

(58) The Commission assessed the existing aid scheme on the basis of Article 107(3)(b) TFEU in light of the Temporary Framework and concluded that it was compliant with the compatibility conditions set out in that Framework.

(59) The Commission refers to its analysis of compatibility as set out in the initial Umbrella Scheme Decision approving the existing aid scheme[19].

(60) After examining the modification described in recital (36), the Commission considers that it meets the conditions of the Temporary Framework. In particular, the modification ensures that, where aid under the existing aid scheme is channelled through credit institutions or other financial institutions, safeguards are put in place to ensure that the advantage brought about by the aid is passed on, to the largest extent possible, to its beneficiaries. Those safeguards are those established in recitals (24) and (32) of the initial Umbrella Scheme Decision and the Commission therefore refers to the compatibility assessment in recitals (53) and (54) of that Decision.

(61) Therefore, the Commission considers that the modification does not affect the Commission's conclusion on the compatibility of the existing aid scheme as set out in the initial Umbrella Scheme Decision.

(62) Apart from the modification referred to in recital (36), the Commission notes that there are no other alterations to the existing aid scheme (recital (38)).

(63) The Commission therefore considers that the modification 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 AND REGULATION (EU) 806/2014

(64) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"**BRRD**"**)[20] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (**"**SRMR**"**)[21], in the event that an institution benefiting from the measures put in place by the competent granting authorities meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the new measure does not appear to violate intrinsically linked provisions of the BRRD and the SRMR.

(65) 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.[22] Nevertheless, any such indirect aid granted under the new measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the new measure is to remedy the liquidity shortage faced by undertakings that are not financial

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[19] See recital (52) of the initial Umbrella Scheme Decision.

[20] OJ L 173, 12.6.2014, p. 190.

[21] OJ L 225, 30.7.2014, p. 1.

[22] Points 6 and 29 of the Temporary Framework.

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 new measure does not qualify as extraordinary public financial support under Article 2(1)(28) BRRD and Article 3(1)(29) SRMR.

(66) Moreover, as indicated in recital (53), the new 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 measures to the final beneficiaries.

(67) The Commission therefore concludes that the new measure does not violate any intrinsically linked provisions of the BRRD and the SRMR.

(68) Concerning the modification, the Commission refers to its assessment of the compliance with intrinsically linked provisions of Directive 2014/59/EU and Regulation (EU) 806/2014 in recitals (55) to (58) of the initial Umbrella Scheme Decision.

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