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Subject: **State Aid SA.57465 (2020/N) – Ireland**
COVID-19: Credit Guarantee Scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 4 August 2020, Ireland notified aid in the form of loan guarantees (Credit Guarantee Scheme, "the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("the Temporary Framework").[1]

2. DESCRIPTION OF THE MEASURE

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

1 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 Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I , 4.4.2020, p. 1,by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

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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.

(3) Ireland confirmed that the aid under the 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.

(4) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of Sections 2, 3.2 and 3.4 of the Temporary Framework.

2.1. The nature and form of aid

(5) The measure provides aid in the form of loan guarantees.

2.2. Legal basis

(6) The legal basis for the measure is:

- the Credit Guarantee Act 2012, as amended by Credit Guarantee (Amendment) Act 2020; and
- the Strategic Banking Corporation of Ireland Act, 2014.

2.3. Administration of the measure

(7) The measure will be administered by the Strategic Banking Corporation of Ireland ("SBCI"), Ireland's national development bank incorporated pursuant to the Strategic Banking Corporation of Ireland Act 2014 in 2014.

2.4. Budget and duration of the measure

(8) The estimated budget of the measure is EUR 2 billion, corresponding to the maximum nominal amounts of the credit facilities guaranteed under the measure.

(9) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

(10) The final beneficiaries of the measure are small and medium enterprises ("SMEs") and large enterprises[2] with up to 499 employees active in Ireland. Financial institutions are excluded as final beneficiaries eligible for aid under the measure.

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2 As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

(11) To qualify for aid under the measure, the undertaking will have to declare a reduction of a minimum of 15% of actual or projected turnover or profit due to the impact of COVID-19 outbreak.

(12) Aid may not be granted under the measure to medium[3] and large enterprises that were already in difficulty within the meaning of the Block Exemption Regulations[4] on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the Block Exemption Regulations[5] on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[6] or restructuring aid[7].

(13) Aid is granted under the measure through credit institutions and other financial institutions as financial intermediaries (hereafter "finance providers"), based on bilateral guarantee agreements signed by the participating finance providers. The measure is open to all finance providers operating in Ireland based on an open-call for participants to be held by the Irish authorities.

2.6. Sectoral and regional scope of the measure

(14) The measure is open to all sectors except the financial sector. It applies to the whole territory of Ireland.

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[3] As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

[4] 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, 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, 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, 24.12.2014, p. 37.

[5] 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, 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, 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, 24.12.2014, p. 37.

[6] Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

[7] Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

2.7. Basic elements of the measure

(15) The measure provides for the issuance of State guarantees on credit facilities that meet the following conditions:

(a) they are new credit facilities, including overdrafts and term loan facilities, granted between the entry into force of the measure and 31 December 2020;

(b) they are investment or working capital credit facilities;

(c) they have a maturity of up to six years[8];

(d) the total amount of the credit facilities does not exceed the higher of:

– double the annual wage bill of the participating enterprise (including social charges as well as the cost of personnel working on the undertaking's site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum finance agreement must not exceed the estimated annual wage bill for the first two years in operation; or

– 25% of the participating enterprises' total turnover in 2019; or

– in limited cases and with appropriate justification, the amount of the finance agreement may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises. The liquidity needs should be established through self-certification by the participating enterprise.

The Irish authorities submit that the reference to the undertakings' liquidity needs to define the maximum loan amount is justified considering that it would apply on an exceptional basis for certain beneficiaries, such as micro enterprises, sole traders and primary producers that may not have documented, or available at the time of the granting of the facility, annual wave bills or turnover, and operate under a more simplified accounting system. In addition, the Irish authorities indicate that the amount representing the beneficiary's liquidity needs may be evaluated based on the statements of the business current account turnover for 2019, as a means of evidencing their 2019 turnover and forecasting their future liquidity needs.

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8 The credit facilities may take the form of an overdraft facility to cover short-term working capital or re-opening costs which would then be rolled-over into a term loan. In such case, the maturity of both the overdraft and the term loan would have to be specified and approved before 31 December 2020 and may not exceed the maximum duration of six years. The remuneration of the guarantee attached to the credit facility will correspond to the maximum tenor, based on the premiums set out in recital (16)(a).

(16) The guarantees to be granted under the notified measure will meet the following conditions:

(a) the guarantee premiums are flat for the entire duration of the guarantee, and shall be fixed depending on the maximum tenor of the guarantee and the type of beneficiary, in accordance with the table below:

Annual guarantee fee (in bps) for a coverage of 80%	Maximum tenor of the guarantee					
	1 year	2 years	3 years	4 years	5 years	6 years
SMEs	15	26	29	50	61	68
Others	30	63	73	119	140	155

The Irish authorities indicate that these levels take into account the need for the measure to be effective in providing assistance to the beneficiaries, and acknowledge the importance of a progressive, graduated premium to incentivize early reimbursement.

(b) the guarantee coverage shall be set at 80% of the losses stemming from the facility; the losses shall be sustained proportionally and under the same conditions by the participating finance providers and by the State;

(c) the guaranteed amount decreases proportionally when the size of the facility decreases;

(d) the guarantees shall be granted no later than 31 December 2020;

(e) the maximum tenor of the guarantee is linked to the maturity of the underlying facility and shall not exceed six years; and

(f) the mobilisation of the guarantee is contractually defined in the agreements signed between the State and the finance providers.

(17) Ireland explains that the measure is designed in a way to minimise the possible indirect aid to the participating finance providers whose loans will be guaranteed under the measure. This is mainly achieved by the following safeguards:

(a) the measure only applies to new facilities so that the aid does not address legacy exposures, in particular non-performing loans (recital (15)(a));

(b) the financial intermediaries will continue to share the risks involved with the facilities as the guarantee is limited to a maximum of 80% of the principal (recital (16)(b));

(c) the financial intermediaries are required, in line with the conditions set out in the bilateral guarantee agreements, to charge a significant discount on interest rates on credit facilities covered by the measure, compared to the standard rates charged on other similar facilities.

2.8. Cumulation

(18) The Irish authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations[9] or the Block Exemption Regulations[10] provided the provisions and cumulation rules of those Regulations are respected.

(19) The Irish authorities confirm that aid under the 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.

(20) The Irish authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(21) The Irish authorities confirm that aid granted under Section 3.2 of the Temporary Framework will not be cumulated with aid granted for the same underlying loan principal under Section 3.3 of that framework and vice versa. Aid granted under Section 3.2 and Section 3.3 may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) or in point 27(d) of the Temporary Framework.

(22) A beneficiary may benefit in parallel from multiple schemes under Section 3.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) of the Temporary Framework.

2.9. Monitoring and reporting

(23) The Irish 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 measure and EUR 10 000 in the agricultural and

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9 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.

10 Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1, Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

fisheries sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[11]).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(25) 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.

(26) The measure is imputable to the State, since it is administered by Ireland's national development bank SBCI and it is based on the legal basis described in recital (6). It is financed through State resources, since it is financed by public funds.

(27) The measure confers an advantage on its beneficiaries in the form of non-market conform guarantees on loans. The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(28) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular SMEs and large enterprises with up to 499 employees, excluding the financial sector.

(29) The 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.

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

3.3. Compatibility

(31) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

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[11] 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 of the Commission Regulation (EU) No 1388/2014. For guarantees, the nominal value of the underlying instrument shall be inserted per beneficiary.

(32) 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*".

(33) 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*".

(34) The measure aims at facilitating the access of undertakings to external finance at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(35) The measure is one of a series of measures conceived at national level by the Irish authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending by private banks to enterprises during the COVID-19 outbreak and to preserve employment and economic continuity is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Irish economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of guarantees*") described in Section 3.2 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.

(36) The Commission accordingly considers that the 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:

- The measure sets flat minimum levels for guarantee premiums for the entire duration of the guarantee. These levels depend on the maximum tenor of the guarantee and the nature of the beneficiary (SMEs or large enterprises) as specified in the table in recital (16)(a), and are modulated to ensure that they are higher than the minimum premiums for the first year set out in the table of point 25(a) of the Temporary Framework, after taking into account the reduced coverage of 80% of the guarantee. It therefore complies with the guidance provided in point 25(b) of the Temporary Framework.

- Guarantees may be granted under the measure by 31 December 2020 at the latest (recital (16)(d)). The measure therefore complies with point 25(c) of the Temporary Framework.

- For credit facilities, irrespective of their maturity, the maximum amount per beneficiary covered by guarantees granted under the measure is limited in line with point 25(d) of the Temporary Framework (recital (15)(d)). The Irish authorities have appropriately justified the recourse to the liquidity needs of beneficiaries under point 25(d)(iii) of the

Temporary Framework, since that alternative shall only apply in exceptional circumstances where the other ceilings (related to the wage bill and the turnover in 2019) may not be appropriate indicators, due to the beneficiaries' modest scale or activity, or the beneficiaries do not have documented wage bills or turnover and apply simplified accounting regimes. The measure therefore complies with point 25(d) of the Temporary Framework.

- The measure limits the duration of the guarantees to a maximum of six years (recital (16)(e)). Those guarantees cover 80% of the loan principal and losses stemming from the credit facilities are sustained proportionally and under the same conditions by the finance providers and the State (recital (16)(b)). Furthermore, when the size of the credit facility decreases over time, the guaranteed amount decreases proportionally (recital (16)(c)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to investment and working capital facilities (recital (15)(b)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Aid may not be granted under the measure to medium[12] and large enterprises that were already in difficulty on 31 December 2019 (recital (12)). The measure therefore complies with point 25(h) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[13] or restructuring aid[14] (recital (12)). The measure therefore complies with point 25(h)bis of the Temporary Framework;

- The measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. In particular, the measure only applies to new facilities so that the aid does not address legacy exposures, in particular non-performing loans (recital (17)(a)); the State guarantee will only cover 80% of the principal, so that financial intermediaries will continue to share the risks involved with the facilities (recital (17)(b)); and the financial intermediaries are required to charge significant discount on interest rates on credit facilities covered by the scheme (recital (17)(c)). In addition, he measure is open to all finance providers, participating in an open-call to be held by the Irish authorities in the context of the implementation of the measure, leaving the possibility for the beneficiary

[12] As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

[13] Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

[14] Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

undertakings to seek for the best conditions for their credit operations in a competitive manner (recital (13)). The safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. The measure therefore complies with points 28 to 31 of the Temporary Framework.

- The cumulation rules set out in point 24bis of the Temporary Framework are respected (recitals (21) and (22)).

- 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 (16)(f)).

(37) The Irish authorities confirm that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected (recital (23)). The Irish authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (18) to (22)).

(38) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014

(39) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"**BRRD**"**)[15] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (**"**SRMR**"**),[16] in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of the BRRD and the SRMR.

(40) 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.[17] Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a

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15 OJ L 173, 12.6.2014, p. 190.

16 OJ L 225, 30.7.2014, p. 1.

17 Points 6 and 29 of the Temporary Framework.

result, aid granted under the measure does not qualify as extraordinary public financial support under Article 2(1)(28) BRRD and Article 3(1)(29 SRMR.

(41) Moreover, as indicated in recital (36) above, the measure introduces safeguards in relation to any possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantages provided by the measure to the final beneficiaries.

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

5. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

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

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
Secretary-General

Ilze JUHANSONE
EUROPEAN COMMISSION