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The European Commission strengthens the temporary framework on State aid

1. The new measures adopted by the European Commission

Last Friday, the European Commission (“Commission”) has adopted an amendment to existing State aid rules to widen the perimeter of the national measures which can be authorized based on the exceptional legal framework to cope with the current crisis.¹ In particular, the Commission considered the following measures:

- a. More support for **research and development** related to the current health crisis. The new rules allow aid, in the form of direct grants, repayable advances or tax advantages for coronavirus and other relevant antiviral R&D, also beyond the ordinarily applicable rules set out in the 2014 Commission’s Communication on State aid for R&D&I.
- b. More support for the **construction and upscaling of testing facilities needed to develop and test products useful to tackle the coronavirus outbreak**, such as medicinal products (including vaccines) and treatments, medical devices and equipment (including ventilators and protective clothing, as well as diagnostic tools), disinfectants, data collection and processing tools useful to fight the spread of the virus. Member States can grant aid in the form of direct grants, tax advantages, repayable advances and no-loss guarantees.
- c. More support for the **manufacturing of products relevant to tackle the coronavirus outbreak and the rapid production of coronavirus-relevant products**: Member States can grant aid in the form of direct grants, tax advantages, repayable advances and no-loss guarantees.
- d. Targeted support in the form of **deferral of tax payments and/or suspensions of social security contributions**, to further reduce the liquidity constraints on companies due to the coronavirus crisis and to preserve employment, in those sectors, regions or for types of companies that are hit the hardest by the outbreak.
- e. Targeted support in the form of **wage subsidies for employees**, to help limit the impact of the coronavirus crisis on workers, in sectors or regions that have suffered most from the coronavirus outbreak, and would otherwise have had to lay off personnel.
- f. **Further support to address urgent liquidity needs of companies**, enabling Member States to give zero-interest loans, guarantees on loans covering 100% of the risk, or provide equity up to the nominal value of **Euro 800 000 per company**. This can be combined also with so-called de minimis aid and with other types of aid.

The Commission specified that, in the case of measures under number 1, 2 and 3, companies can benefit from a bonus when their investment is supported by more than one Member State and when the investment is concluded within two months after the granting of the aid.

¹ The text of the amendment is available [here](#).

2. The strengthening of the framework

The new measures adopted by the Commission strengthen to a significant extent the preexisting legal framework. In particular, the aid measures authorized so far by the Commission could be divided into three categories:

- a. **Measures for compensating the damages directly caused by the Covid-19 outbreak.** These are aids authorized ex Article 107, paragraph 2, letter b) of the Treaty on the Functioning of the European Union (“TFEU”), according to which Member States can grant funds to restore the damages directly linked with exceptional occurrences, such as the Coronavirus outbreak. Recently, on 31 March 2020, the Commission authorized a French scheme for tax deferral in favor of airlines companies registered in France.²
- b. **Measures for mitigating the immediate consequences of the outbreak on the economy and especially on SMEs.** These measures have mostly been shaped according the provisions of the temporary framework adopted on 19 March 2020, based on Article 107, paragraph 3, letter b) TFEU (the “Temporary Framework”).³ According to the Temporary Framework, under certain conditions, Member States can introduce support measures in the form of (i) direct grants, tax advantages or repayable advances up to Euro 800,000, (ii) State loans at favorable terms, and (iii) State guarantees. An example of this type of intervention is the Italian public guarantee granted to SMEs, linked with the possibility to defer the payment of bank loans.⁴
- c. **Measures relevant for coping with the current health crisis.** So far there has been only one decision of this kind: the Italian public grant scheme for the production of protective masks and other medical equipment.⁵

With these amendments, the Commission strengthens the possibility to finance activities which directly cope with the health emergency, following the example of the Italian measure already cleared. This is an innovative interpretation of State aid rules which, until now, for these types of interventions, required longer and more complex notification procedures (falling within Article 107, paragraph 3, letter c)). Moreover, the Commission upgraded the measures to ensure companies’ liquidity. In practice, thanks to the cumulation with de minimis aid, Member states could grant aid up to **1 million euro per company**. Finally, the new rules offer the possibility to adopt measures to support workers through the crisis.

3. Conclusion

The Commission has been carrying out significant efforts to adapt State aid rules to fit with the current situation and to provide quick answers to national authorities. Thanks to these amendments, the range of tools in the hands of Member States has been further broadened, including measures to support liquidity needs, workers and incentives for the production of devices useful to tackle the virus outbreak. However, it cannot be excluded that the Commission could have to further amend existing rules because important sectors of the economy, equally hit by the crisis, still remain in need of support, such as innovative start-

² The press release is available at [here](#)

³ For more details click [here](#).

⁴ The measure was introduced with Article 57 of the Law Decree of 17 March 2020, n. 18, setting out support measures for companies, workers and families linked with the Covid-19 outbreak (the “Decree”), and it was authorized by the Commission with its decision of 25 March 2020 (SA.56690). For a list of decisions of this type, please visit DG COMP’s website [here](#).

⁵ See Article 1.50f of the Decree and Commission’s decision of 22 March 2020 (SA. 56786).

ups, infrastructures, circular economy or green technologies.

Gianni, Origoni, Grippo, Cappelli & Partners has set up an in-house **Task Force** to constantly monitor the evolution of legislation in the regions affected by the Coronavirus and is at your entire disposal to support you in defining, drafting and implementing the most advisable strategies to limit the impact of the spread of the Coronavirus on the operations of your business and the management of your existing commercial relations. For our previous newsletters on this subject, please click [here](#).

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