



EUROPEAN COMMISSION

Brussels, 9.09.2022  
C(2022) 6579 final

**SENSITIVE\***: *COMP Operations*

**Subject:** State Aid SA.103626 (2022/N) – Romania  
TCF: The IMM Invest Plus State aid scheme

Excellency,

## 1. PROCEDURE

- (1) By electronic notification of 5 August 2022, certain aspects of which were supplemented subsequently with clarifications by Romania, Romania notified aid in the form of limited amounts of aid and liquidity support in the form of guarantees (the IMM Invest Plus State aid scheme, the “measure”) under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the “Temporary Crisis Framework”)<sup>1</sup>.
- (2) Romania 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<sup>2</sup> and to have this Decision adopted and notified in English.

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<sup>1</sup> Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 131 I, 24.3.2022, p. 1), as amended by Commission Communication C(2022) 5342 (OJ C 280, 21.7.2022, p. 1).

<sup>2</sup> 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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## 2. DESCRIPTION OF THE MEASURE

- (3) Romania considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken for example by Russia ('the current crisis') so far affects the real economy. The current crisis has created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity<sup>3</sup>, but also in numerous other input and raw materials and primary goods. It will have a negative impact on the beneficiaries of the measure (defined below in recital (14)). All sectors are already directly or indirectly affected. At sectoral level, a survey conducted by the National Prognosis Commission among enterprises in April-June 2022 shows that, for a large number of sectors, industrial production during the second quarter of 2022 was significantly lower compared to the corresponding period of the previous year, in particular in the energy industry, the manufacture of transport vehicles, textile products, the metallurgical industry and, to a lesser extent, the manufacture of pharmaceutical products, clothing, equipment, and computers. According to the National Bank of Romania Survey on access to finance for non-financial companies in Romania, the most pressing problem reported by 47% of the surveyed companies concerns the increase in production costs. In that regard, in case of increase in expenditure on raw materials by 25% compared to the level recorded in June 2021, the data from the National Bank of Romania Survey show that the share of companies with a negative EBIT<sup>4</sup> margin would increase from 16% to 37%, and respectively to 44% in case of an increase of 50%<sup>5</sup>. In this context, companies face difficulties in having sufficient liquidity available to viably conduct their business. Thus, the measure aims to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far for example by Russia.
- (4) Romania confirms 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.
- (5) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of Sections 1, 2.1 and 2.2 of the Temporary Crisis Framework.

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<sup>3</sup> Romania reports increases in electricity prices by 21.87% in May 2022 compared to December 2021, and in gas prices by 23.2% in the same period.

<sup>4</sup> Earnings before interest and taxes.

<sup>5</sup> For more details regarding the extent of price increases experienced in Romania see [https://insse.ro/cms/sites/default/files/field/publicatii/buletin\\_statistic\\_de\\_preturi\\_nr06\\_4.pdf](https://insse.ro/cms/sites/default/files/field/publicatii/buletin_statistic_de_preturi_nr06_4.pdf).

## **2.1. The nature and form of aid**

- (6) The measure provides aid in the form of direct grants (to cover interest on the contracted loans/credit lines for a maximum period of 12 months, and fees, namely the amount of the risk fee and management fee) and loan guarantees.

## **2.2. Legal basis**

- (7) The legal basis for the measure is the Emergency Ordinance No 99/2022<sup>6</sup> on the State aid scheme IMM Invest Plus, and its components – IMM INVEST ROMÂNIA, AGRO IMM INVEST, IMM PROD, GARANT CONSTRUCT, INNOVATION and RURAL INVEST (“Emergency Ordinance”). Article 2 of the Emergency Ordinance indicates that aid shall only be granted after the notification of the Commission decision approving the measure.
- (8) The Romanian authorities also refer to the draft Government Ordinance on regulating some budgetary measures (the “draft Government Ordinance”), which will transpose some of the provisions of Commission Communication C(2022) 5342 amending the Temporary Crisis Framework,<sup>7</sup> in particular of its Section 2.1. – Limited amounts of aid, and of its Section 2.2. – Liquidity support in the form of guarantees, related to the aid granted in the form of guarantees and in the form of grants. Among other provisions, the draft Government Ordinance will amend the ceilings for guarantees and the budget for grants provided for in the Emergency Ordinance.
- (9) Within 30 days from the date of entry into force of the Emergency Ordinance, implementing measures providing mere technical application of the Emergency Ordinance for each specific component of the measure, relating to the form of aid, ceilings and payment of aid should be approved by joint order of the Minister of Finance and the relevant ministers<sup>8</sup>.

## **2.3. Administration of the measure**

- (10) The aid granting authority is the Romanian Ministry of Finance. The administration of the measure is delegated as follows, depending on the relevant component of the measure<sup>9</sup>:
- (a) The IMM INVEST ROMANIA component is administered by the National Credit Guarantee Fund for Small and Medium-Sized Enterprises S.A. – IFN (the “FNGCIMM”);
- (b) The AGRO IMM INVEST component is administered by the FNGCIMM and the Rural Credit Guarantee Fund – S.A. – IFN (the “*Fondul de Garantare a Creditului Rural* (FGCR)”);

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<sup>6</sup> Published in the Official Gazette of Romania No 655 of 30 June 2022.

<sup>7</sup> See footnote 1.

<sup>8</sup> See Article 3 of the Emergency Ordinance.

<sup>9</sup> See Article 1, paragraph (3) of the Annex to the Emergency Ordinance.

- (c) The IMM PROD component is administered by the FNGCIMM;
- (d) The GARANT CONSTRUCT component is administered by the FNGCIMM and the Romanian Counter Guarantee Fund – S.A. (the “*Fondul Roman de Contragarantare (FRC)*”);
- (e) The INNOVATION component is administered by the FRC;
- (f) The RURAL INVEST component is administered by the FGCR.

#### **2.4. Budget and duration of the measure**

- (11) The measure will be financed by the State budget.
- (12) The maximum amount of guarantees, which can be granted under the measure, will not exceed RON 17 750 000 000 (approx. EUR 3 590 000 000)<sup>10</sup>. The budget for aid in the form of direct grants is up to RON 1 930 018 000 (approx. EUR 390 320 000) and will be implemented only within the limits of the annual amounts allocated and approved to this end by the Ministry of Finance. The ceilings of State guarantees that may be issued under each component of the measure are established by joint order of the Minister of Finance and relevant ministers<sup>11</sup>.
- (13) Aid may be granted under the measure as from the notification of the Commission’s decision approving the measure until no later than 31 December 2022<sup>12</sup>. The Romanian authorities submit that the IMM Invest Plus scheme will become operational on the date of the notification of the Commission decision authorising the measure and will run until 31 December 2022. Grants covering interest on State-guaranteed loans will be paid by the State to the credit institutions concerned within a maximum of 13 months from the date the respective loan has been granted.

#### **2.5. Beneficiaries**

- (14) The final beneficiaries of the measure are, depending on the relevant component of the measure, the following:
  - (a) IMM INVEST ROMANIA: Small and medium-sized enterprises (SMEs)<sup>13</sup> and small enterprises with medium market capitalisation<sup>14</sup>;

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<sup>10</sup> See paragraph (7) of the Single Article of the draft Government Ordinance and Article 16, paragraph (2) of the Annex to the Emergency Ordinance. The exchange rate used in the conversion is: EUR 1= RON 4.9447.

<sup>11</sup> See paragraph (7) of the Single Article of the draft Government Ordinance and Article 16, paragraph (3) of the Annex to the Emergency Ordinance.

<sup>12</sup> See Article 5, paragraph (2)(ii) of the Annex to the Emergency Ordinance.

<sup>13</sup> 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). See Romanian Law No 346/2004 on stimulating the establishment and the development of small and medium-sized enterprises as subsequently amended.

- (b) AGRO IMM INVEST: SMEs and small enterprises with medium market capitalisation<sup>15</sup>;
  - (c) IMM PROD: SMEs<sup>16</sup>;
  - (d) GARANT CONSTRUCT: SMEs and small enterprises with medium-market capitalisation active in the construction sector, as regards the sub-component supporting investment projects for SMEs and enterprises with medium-market capitalisation,<sup>17</sup> and administrative territorial units ('ATUs'), as regards the sub-component for the support of small-scale investment projects for ATUs<sup>18</sup>;
  - (e) INNOVATION: SMEs and small enterprises with medium-market capitalisation;
  - (f) RURAL INVEST: SMEs, small enterprises with medium market capitalisation and large enterprises.
- (15) The Romanian authorities estimate that 24 786 undertakings may benefit from the measure. Aid is granted under the measure either directly or through credit institutions and other financial institutions as financial intermediaries. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.
- (16) Romania confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions<sup>19</sup>.
- (17) Romania confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable

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<sup>14</sup> The current definition of small enterprises with medium market capitalisation follows the definition of small mid-caps set out in Article 2 of Commission Regulation (EU) No 651/2014.

<sup>15</sup> See Law No 346/2004 and Law No 36/1991 on agricultural companies and other forms of association in agriculture, as amended and supplemented, and Law No 566/2004 on agricultural cooperatives, as amended and supplemented, in the agriculture, fisheries, aquaculture and food sector.

<sup>16</sup> The component covers SMEs, which have their main and/or secondary establishment located in an urban area.

<sup>17</sup> The component covers SMEs and architects as regulated by Law No 184/2001 on the organisation and practice of the profession of architect.

<sup>18</sup> The municipality, city, commune which carry out investment projects in the construction sector (Article 2(s) of the Annex to the Emergency Ordinance).

<sup>19</sup> See Article 6, paragraph (4) of the Emergency Ordinance.

regulations<sup>20</sup>. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

## 2.6. Sectoral and regional scope of the measure

- (18) The measure is open to all sectors, except the financial sector, and to the whole territory of Romania, with the following exceptions:
- (a) The AGRO IMM INVEST and RURAL INVEST components are only open to undertakings active in the agriculture, fisheries, aquaculture and food sectors, with the exclusion of those active in the forestry sector;
  - (b) The GARANT CONSTRUCT component is only open to undertakings active in the construction sector;
  - (c) Undertakings active in the forestry sector are only eligible under the IMM INVEST component.

## 2.7. Basic elements of the measure

- (19) The measure is composed of six components:

	<b>Component</b>	<b>Objective of each component</b>
1	IMM INVEST ROMANIA component	The component aims at granting State guarantee facilities for loans granted to SMEs and small enterprises with medium market capitalisation by credit institutions with the exception of the activities covered by the other components of the measure.
2	AGRO IMM INVEST component	The component is aimed at supporting SMEs and small enterprises with medium market capitalisation in the field of agriculture, fisheries, aquaculture and food sector.
3	IMM PROD component	The component is aimed at providing liquidity and investment financing for SMEs, in urban areas for the following purposes: <ul style="list-style-type: none"> <li>• to encourage domestic production of consumer goods, increase</li> </ul>

<sup>20</sup> For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

		<p>production capacity;</p> <ul style="list-style-type: none"> <li>• conversion from intermediation to production;</li> <li>• digitisation of the activity;</li> <li>• alignment/improvement of environmental standards, including improvement of energy efficiency in production processes.</li> </ul>
4	GARANT CONSTRUCT component	The component is aimed at supporting projects on energy efficiency improvement, green energy investments and alignment with environmental objectives implemented by SMEs and small enterprises with medium market capitalisation active in the construction sector and ATUs, in line with its two sub-components:
	a) Sub-component SMEs and small enterprises with medium market capitalisation	Sub-component to support investment projects for SMEs and small enterprises with medium market capitalisation active in the construction sector;
	b) Sub-component ATUs	Sub-component supporting small-scale investment projects for ATUs involving the financing of economic activities in the construction sector.
5.	INNOVATION Component	The component is aimed at supporting enterprises making inventions and innovations, support activities promoting SME and small enterprises with medium market capitalisation exports (consisting of activities leading to the stimulation of Romanian exports, i.e. support for international transactions and Romanian investments abroad), enhance the stimulation of online trade and digitisation, re-training of local enterprises, innovation patents on products, strategies, environment, digitisation, operating in the ‘clean export industry’.

6.	RURAL INVEST component <sup>21</sup>	The component is aimed at supporting undertakings of all sizes, active in agriculture, fisheries, aquaculture and food sector.
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- (20) The objective of the measure is the provision of support, in connection with the underlying eligible loans described in recital (21), in the form of:
- (a) guarantees, provided under Sections 2.1 and 2.2 of the Temporary Crisis Framework for investment and/or working capital loans and described, respectively, in Sections 2.7.2 and 2.7.1 below, and
  - (b) direct grants, provided under Section 2.1 of the Temporary Crisis Framework and described in Section 2.7.2 below.
- (21) In particular, if the guarantees under point (a) of recital (20) are granted to secure new loans taken to refinance existing investment loans and/or working capital loans, the amount of the guarantee will be regarded as similar to a grant and thus will be taken into consideration when examining whether the ceilings set out in points 41(a) and 42(a) of Section 2.1 of the Temporary Crisis Framework are met.<sup>22</sup> Guarantees under Section 2.2 of the Temporary Crisis Framework cannot be granted to secure loans taken to refinance existing loans.
- (22) The underlying eligible loans cover the following eligible expenditure, depending on the relevant component of the measure:
- (a) IMM INVEST ROMANIA:
    - (i) Investment loans:
      - Purchase of equipment, machinery, tools, transport means, and/or other fixed assets, including VAT;
      - Purchase of intangible assets related to investments (e.g. software, software licences, patents), including VAT;
      - Purchase of production, service or commercial space or land for construction or agriculture, including VAT;
      - Construction of production, service or commercial spaces;

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<sup>21</sup> According to the Romanian authorities, the RURAL INVEST component differs from the AGRO IMM INVEST component insofar as (a) the AGRO IMM INVEST component is not open to large enterprises, (b) under the AGRO IMM INVEST component the refinancing of existing loans is permitted, and (c) under the AGRO IMM INVEST component, the direct grants cannot cover the interest related to State-guaranteed loans that are granted to beneficiaries in the primary agricultural sector, aquaculture and fish-farming.

<sup>22</sup> Article 5, paragraph (3) of the Annex to the Emergency Ordinance.



- Expenditure on capital repairs, modernisation of workspace, workshops or and/or workstations;
  - Other expenditure related to the investment plans, including VAT.
- (ii) Working capital loans and lines of credit:
- Expenditure on supplies, production and/or disposal;
  - Expenditure on works and/or services;
  - Expenditure on building-up, processing, or valuation of stocks;
  - Expenditure on maintenance, current repairs of work premises, premises, or workshops;
  - Other types of expenditure necessary for current operations;
  - Expenditure on salaries and similar charges;
  - Expenditure on rent or utilities;
  - Payment of taxes, charges, contributions or other amounts due to the general consolidated budget;
  - Other operating costs;
  - Expenditures on other eligible NACE (CAEN<sup>23</sup>) codes<sup>24</sup>.
- (iii) Expenditure on refinancing other investment loans or on the purchase of shares and stocks.
- (b) For the AGRO IMM INVEST component, eligible expenditures are the same as for the IMM INVEST ROMANIA component.
- (c) IMM PROD:
- (i) Purchase of equipment and machinery, including for conversion from intermediation to production or for starting up new production activities;
  - (ii) Purchase, development of land and purchase/construction of production halls;

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<sup>23</sup> Classification of activities in the economy; a Romanian term for NACE.

<sup>24</sup> Authorised in accordance with Law No 359/2004 on the simplification of formalities for the registration of natural persons, family associations and legal persons in the commercial register, their tax registration and the authorisation of legal persons to operate, as subsequently amended and supplemented. In this case, the credit institution will send a copy of the certificate of establishment provided by the beneficiary, in which these eligible NACE (CAEN) codes are listed in the section on authorised establishments/activities.

- (iii) Acquisition of equipment, software, consultancy for the digital transformation of SMEs, including re-technology projects for SMEs operating and developing projects in the manufacturing industry;
  - (iv) Purchase of equipment to meet environmental objectives that generate energy efficiency for own consumption, solar panels, biogas stations, recycling stations;
  - (v) Financing of working capital for stocks of raw materials, materials and goods (in the case of manufacturing companies with their own supply chains) and other operating costs for firms intending to open, develop or diversify production activities, including for internationalisation, or to convert from intermediation to production;
  - (vi) Expenditure on refinancing other investment loans or expenditure on the acquisition of shares and stocks.
- (d) GARANT CONSTRUCT:
- (i) Acquisition of construction equipment and machinery, industrial logistics, including for starting up new activities in the construction sector required for construction projects;
  - (ii) Construction, acquisition, fitting out of premises for own use, including for starting up new activities in the construction sector;
  - (iii) Purchase of equipment, software, consultancy for the digital transformation of beneficiaries carrying out contracts in the construction sector;
  - (iv) Purchase of equipment to meet environmental objectives that generate own consumption efficiency, solar panels, biogas stations or recycling stations;
  - (v) Working capital financing for the purchase of construction materials, fuel or energy;
  - (vi) Payment of salaries for SMEs and small enterprises with medium-market capitalisation carrying out contracts in the construction sector;
  - (vii) Acquisition of shares and stocks.
- (e) INNOVATION:
- (i) Expenditure incurred for participation in international trade fairs to promote the company's products in international markets;
  - (ii) Expenditure on the purchase of means of transport for distribution services for export activities;
  - (iii) Expenditure on the acquisition of patents, licences, trademarks;

- (iv) Expenditure on obtaining permits, agreements and authorisations;
  - (v) Expenditure on the purchase of equipment, machinery, plant, technology, independent facilities necessary for the conduct of the activity;
  - (vi) Expenditure on the purchase of ICT hardware and related devices and equipment, including installation, configuration and commissioning costs;
  - (vii) Expenditure on the development of tools for the on-line marketing of the applicant's own services or products<sup>25</sup>;
  - (viii) Payment of the salaries and rents for the premises in which eligible undertakings operate.
- (f) RURAL INVEST:
- (i) Investment credit:
    - Purchase of equipment, machinery, tools, transport means or other fixed assets, including VAT;
    - Purchase of intangible assets related to the investment (software, software licences, patents, etc.), including VAT;
    - Purchase of production, service or commercial space or land for construction, including VAT;
    - Acquisition of shares and stocks;
    - Construction of production, service or commercial premises and expenditure on capital repair;
    - Upgrading of premises, workshops or workstations;
    - Other expenditure relating to the investment plan, including VAT.
  - (ii) Working capital credit or line of credit:
    - Expenditure on supplies, production or disposal;

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<sup>25</sup> Software solutions for management, evaluation and monitoring purposes, expenditure for the purchase of a company presentation website, purchase of a domain and server hosting, expenditure for the purchase of cloud and SaaS (i.e. Software as a Service) services, expenditure for the purchase of hosting services (including all types of hosting services except reseller packages), expenditure for the purchase of services to strengthen cybersecurity applicable to software, hosting or networks, sales activities (customer prospecting, lead management, active customer portfolio management), customer relationship management (through Customer Relationship Management software solutions), management of customer issues, financial activity, document management, analysis and correct management of business processes, collecting data specific to the objectives and profile of each company.

- Expenditure on works and/or services;
  - Expenditure on building-up, processing or valuation of stocks;
  - Expenditure on maintenance, current repairs of work premises, premises or workshops;
  - Other expenditure necessary for the conduct of current business;
  - Expenditure on wages and similar charges;
  - Expenditure on rent/utilities;
  - Payment of taxes, charges, contributions or other amounts due to the general consolidated budget;
  - Other operating costs.
- (23) The aid is granted to enterprises operating in different sectors (recital (18)), negatively affected by the economic effects of the current crisis.<sup>26</sup> In this respect, the Romanian authorities submit that beneficiaries will be required to submit documentation or their own assessment demonstrating the negative impact caused by the current crisis, which will be verified by the credit institutions.

*2.7.1. Guarantees under Section 2.2 of the Temporary Crisis Framework*

- (24) State guarantees<sup>27</sup> are provided on new individual loans<sup>28</sup> for investment and/or working capital, covering expenditure eligible in accordance with recital (22).
- (25) The guarantees are granted for up to 90% of the amount of the financing, excluding interest, bank charges and bank fees related to the guaranteed loan for one or more investment loans and/or one or more working capital loans or credit lines<sup>29</sup>.
- (26) The maximum capital of each loan for which a State guarantee is granted may not exceed RON 5 million (approx. EUR 1.01 million) for loans/lines of credit for working capital, and RON 10 million (approx. EUR 2.02 million) for investment loans, except for beneficiaries in the field of primary agricultural production, aquaculture and fish farming for one or more financed activities, for which the maximum amount of each loan is RON 5 million. The maximum cumulative

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<sup>26</sup> Article 5, paragraph (5)(iii) of the Annex to the Emergency Ordinance.

<sup>27</sup> In addition to State guarantees, guarantees may be granted by other banking and non-banking financial institutions in accordance with their own rules and procedures (see Article 4, paragraph (6) of the Annex to the Emergency Ordinance).

<sup>28</sup> Guarantees provided under this section cannot be granted to secure loans taken to refinance existing loans, as the sole possibility to secure such loans under the measure is provided for in Section 2.7.2, as set out at recital (35)(a).

<sup>29</sup> See Article 4, paragraph (1) of the Annex to the Emergency Ordinance.

amount of loans for which State guarantees are granted for a given beneficiary may not exceed RON 10 million, or RON 5 million for beneficiaries in the field of primary agricultural production, aquaculture and fish farming. In either case, the maximum cumulative amount of loans per beneficiary, for which State guarantee may be granted under the measure will not exceed the highest value of<sup>30</sup>:

- (a) 15% of the beneficiary's average total annual turnover in the last three closed accounting periods, i.e. the last three closed accounting periods of gross income or the annual income norm in the case of individuals deriving income from self-employment, as the case may be, according to the single declaration on income tax and social contributions due by individuals submitted to the competent tax authorities. When the beneficiaries of the measure are newly established undertakings that do not hold three closed annual accounts, the applicable cap will be calculated based on the undertaking's duration of existence at the moment of the aid application by the undertaking;
  - (b) 50% of the energy costs in the 12 months preceding the month in which the aid application is submitted. When the beneficiaries of the measure are newly established enterprises that do not have records for the entirety of the preceding twelve months, the applicable cap will be calculated based on the undertaking's duration of existence at the moment of the aid application by the undertaking;
  - (c) In cases where the use of the limits provided under recitals (26)(a) or (26)(b) does not fully cover the liquidity needs of the beneficiary, the amount of the loan may be increased so as to cover the liquidity needs at the time of its granting for the next 12 months in the case of SMEs, and for the next 6 months in the case of large enterprises, small enterprises with medium market capitalisation and ATUs carrying out investment projects in the construction sector.
- (27) The possibility described in recital (26)(c) will only be used exceptionally, for beneficiaries that are operating in sectors that are particularly affected by direct or indirect effects of the current crisis (i.e. disruptions of supply chains or outstanding payments from Russia or Ukraine, increased risks of cyber-attacks or rising prices for specific inputs or raw-materials affected by the current crisis). For the purpose of using this possibility, a reasoned justification will be required by the potential beneficiary, which must be operating in sectors particularly affected by the above-mentioned direct or indirect effects of the current crisis. In this context, the Romanian authorities further submit that this possibility will only be used for undertakings whose turnover or energy bill is not a good indicator to forecast the expenditures in the coming months (for example, if the beneficiary is a new company or a start-up) or needs more liquidity to withstand the current economic context. The financial intermediaries will have to verify the needs for liquidity of the undertakings, on the basis of documents such as contracts and business plans, proving that they are affected by: (i) the disruptions of supply chains or outstanding payments from Russia or Ukraine; and/or (ii) increased

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<sup>30</sup> See Article 4, paragraph (2) of the Annex to the Emergency Ordinance.

risks of cyber-attacks; and/or (iii) rising prices for specific inputs or raw materials affected by the current crisis. The Romanian authorities confirm that this certification process will be subject to control by the national authorities before granting the aid or by monitoring the aid.

- (28) The maximum maturity of investment loans to be guaranteed under the measure is 72 months (i.e. six years) with no possibility of extension beyond this period<sup>31</sup>. Credit institutions may grant, at the beginning of the lending period, at the request of the beneficiaries, a grace period of up to 18 months for the repayment of the principal<sup>32</sup>. The grace period does not concern the payment of interest. In such cases, the guarantee premiums and interest linked to these grace periods will continue to accrue normally.
- (29) The maximum maturity of working capital loans or lines of credit to be guaranteed under the measure is 36 months, with no possibility of extension beyond this period. During the last 12 months of the validity of the guarantee, the loan shall be repaid in monthly or quarterly payments on the basis of a reimbursement schedule<sup>33</sup>.
- (30) The duration of the guarantee may not exceed six years<sup>34</sup>.
- (31) The guarantee premiums will be as follows<sup>35</sup>:

Type of recipient	Credit risk margin for 1 <sup>st</sup> year	Credit risk margin for 2 <sup>nd</sup> - 3 <sup>rd</sup> year	Credit risk margin for 4 <sup>th</sup> - 6 <sup>th</sup> year
SMEs	25 bps	50 bps	100 bps
Large enterprises, small enterprises with medium market capitalisation and ATUs	50 bps	100 bps	200 bps

- (32) The Romanian authorities confirm that 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.
- (33) The losses are sustained proportionally and under same conditions, by the credit institution and the Romanian State, through the Ministry of Finance<sup>36</sup>. In addition,

<sup>31</sup> See Article 4, paragraph (3) of the Annex to the Emergency Ordinance.

<sup>32</sup> See Article 4, paragraph (5) of the Annex to the Emergency Ordinance.

<sup>33</sup> See Article 4, paragraph (3) of the Annex to the Emergency Ordinance.

<sup>34</sup> See Article 4, paragraph (4) of the Annex to the Emergency Ordinance.

<sup>35</sup> See Article 4, paragraph (7) of the Annex to the Emergency Ordinance.

<sup>36</sup> See Article 13, paragraph (3) of the Annex to the Emergency Ordinance.

the Romanian authorities confirmed that when the size of the loan decreases over time, the guaranteed amount will decrease proportionally.

- (34) The measure contains safeguards preventing credit and other financial institutions from benefiting of any indirect aid. In particular, the Romanian authorities explain that the specified financial advantages of the measure are fully transmitted to the final beneficiaries. The beneficiaries of the measure will benefit from loans with a lower interest rate set by order of the Minister of Finance, reflecting the decrease in risk and capital requirements for the credit institutions, and consisting in a variable component determined on market conditions (three-month ROBOR interest) plus a non-variable margin, which will be lower than the standard margin charged by credit institutions, will be capped and will be maintained throughout the credit period in a context of rising interest rates. Thus, the beneficiaries will benefit from a clear direct advantage. In addition, the collateral requirements will be lower than under the standard credit approval procedure. Furthermore, the guarantees will be complemented with grants under Section 2.1 of the Temporary Crisis Framework only benefiting the final beneficiary.

*2.7.2. Limited amounts of aid under Section 2.1 of the Temporary Crisis Framework*

- (35) Limited amounts of aid are provided under the measure in the form of:
- (a) Guarantees on loans, as described in recital (21), if used for the refinancing of investment loans and/or working capital loans previously contracted by the beneficiaries.<sup>37</sup> The terms of those guarantees are the same as for the guarantees described under Section 2.7.1, subject to the specific rules laid down in recitals (36) to (38). In this context, the safeguards preventing credit and other financial institutions set out in recital (34) from benefiting of any indirect aid will also apply.
  - (b) Direct grants to cover the sums of:
    - the administration fees (such as risk commissions and management fees) related to the guarantees described in Section 2.7.1, for the entire period covered by the guarantee, for beneficiaries under all components of the measure; and,
    - the amount of interest related to the loans guaranteed by State guarantee under the measure (as described in recital (21)) for a maximum period of 12 months, for beneficiaries under all components of the measure, with the exception of beneficiaries from the primary agricultural production sector, aquaculture and fish farming under the AGRO IMM INVEST component. Romania submitted that the interest rate is set by order of the Minister of Finance, consists in a variable component determined on market conditions (three-month ROBOR interest) plus a non-variable

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<sup>37</sup> The use of the loans to refinance existing loans is possible for the IMM INVEST ROMANIA, AGRO IMM INVEST and IMM PROD components only.

margin, which will be lower than the standard margin charged by credit institutions and will be capped.

- (36) The maximum aid amount per undertaking is EUR 500 000<sup>38</sup> (gross, i.e. before any deduction of tax or other charge), as set out in paragraph 41(a) of the Temporary Crisis Framework. For undertakings active in the primary production of agricultural products<sup>39</sup> and for undertakings active in the fishery and aquaculture sectors<sup>40</sup>, the overall aid does not exceed EUR 62 000 and EUR 75 000 (gross) respectively. The Romanian authorities confirm that, for aid granted in other forms than direct grants, tax and payment advantages, the total nominal value of aid in such forms remains below the overall maximum caps per undertaking. All figures used are gross, that is, before any deduction of tax or other charges.
- (37) The Romanian authorities confirm that where an undertaking is active in the processing and marketing of agricultural products, the aid is not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.
- (38) For the agricultural, fisheries and aquaculture sectors, Romania confirms that:
- (a) aid to undertakings active in the primary production of agricultural products<sup>41</sup> will not be fixed on the basis of the price or quantity of products put on the market;
  - (b) aid to undertakings active in the fishery and aquaculture sector<sup>42</sup> does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) Commission Regulation (EU) No 717/2014;
  - (c) where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 41(a) and 42(a) of the Temporary Crisis Framework, it will be ensured, by appropriate means such as separation of accounts, that for each of those activities the relevant

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<sup>38</sup> The EUR to RON exchange rate for calculating the maximum ceiling is the exchange rate of the National Bank of Romania valid at the date of issuing the financing agreement.

<sup>39</sup> As defined in Article 2(5) of 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).

<sup>40</sup> As defined in Article 2(1) of 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).

<sup>41</sup> As defined in Article 2(5) of Commission Regulation (EC) No 702/2014.

<sup>42</sup> As defined in Article 2(1) of Commission Regulation (EC) No 717/2014.



ceiling is respected and that the overall maximum amount of EUR 500 000 is not exceeded per undertaking. Where an undertaking is active exclusively in the sectors covered by point 42(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 75 000 is not exceeded per undertaking.

## 2.8. Cumulation

- (39) The Romanian authorities confirm that aid granted under the measure may be cumulated with aid under the *de minimis* Regulations<sup>43</sup> or Commission Regulation (EU) No 651/2014, 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<sup>44</sup> 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<sup>45</sup>, provided the provisions and cumulation rules of those Regulations are respected.
- (40) The Romanian 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.
- (41) The Romanian authorities confirm that aid under the measure may be cumulated with aid under the COVID-19 Temporary Framework<sup>46</sup>. The cumulation will

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<sup>43</sup> 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).

<sup>44</sup> OJ L 193, 1.7.2014, p. 1.

<sup>45</sup> OJ L 369, 24.12.2014, p. 37.

<sup>46</sup> As approved in Commission decision of 7 June 2022 in case SA.103035 (2022/N) – COVID-19: State aid scheme associated to the RURAL INVEST Program (OJ C 242, 24.6.2022, p. 15); Commission decision of 3 June 2022 in case SA.102830 (2022/N) – COVID-19: State aid scheme associated to the GARANT CONSTRUCT Program (OJ C 242, 24.6.2022, p. 13); Commission decision of 03 June 2022 in case SA.102828 (2022/N) – COVID-19: State aid scheme associated to the SME PROD Program (OJ C 242, 24.6.2022, p. 12); Commission decision of 25 May 2022 in case SA.102898 (2022/N) – COVID-19: Support for agri-food entities in the form of micro-grants and working capital grants (OJ C 235, 17.6.2022, p. 9); Commission decision of 22 February 2022 in case SA.101753 (2022/N) – COVID-19: Re-introduction of the State Aid scheme SA.100195 – COVID-19: support for SMEs to overcome the economic crisis caused by the COVID-19 pandemic – productive investments (OJ C 106, 4.3.2022, p. 10); Commission decision of 27 October 2021 in case SA.100195 (2021/N) – COVID-19: Support for SMEs in order to overcome the economic crisis generated by the COVID-19 pandemic - productive investments (OJ C 521, 27.10.2021, p. 14); Commission decision of 20 May

apply only for the part of the liquidity needs that have not been covered by aid granted under that framework. Those measures were approved by the Commission under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak<sup>47</sup> (COVID-19 Temporary Framework) and the aid under the notified measure may be cumulated with those measures provided the respective cumulation rules are respected.

- (42) The Romanian 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 Crisis Framework provided the provisions in those specific sections are respected.
- (43) The Romanian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under Section 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in points 41(a) and 42(a) of that framework, will be respected<sup>48</sup>. Aid granted under the measure and other measures approved by the Commission under Section 2.1 of the Temporary Crisis Framework which has been reimbursed before 31 December 2022 will not be taken into account in determining whether the relevant ceiling is exceeded. Furthermore, the Romanian authorities confirm that aid granted on the basis of schemes approved under Section 2.1 of the Temporary Crisis Framework which has been reimbursed before granting new aid under this section of that framework will not be taken into account in determining whether the relevant ceiling is exceeded.
- (44) The Romanian authorities confirm that for the same underlying loan principal aid granted under Section 2.2 of the Temporary Crisis Framework will not be cumulated with aid granted under Section 2.3 of that framework and vice versa or

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2021 in case SA.62827 (2021/N) – COVID-19: Support of the activity of cattle breeders in 2021 in the context of the economic crisis generated by COVID-19 (OJ C 223, 11.06.2021, p. 28); Commission decision of 23 November 2020 in case SA.58462 (2020/N) – COVID-19: Guarantees on factoring (OJ C 421, 4.12.2020, p. 15); Commission decision of 9 September 2020 in case SA.58453 (2020/N) – COVID-19: Supporting the activity of breeders in the bovine sector in the context of the economic crisis caused by the COVID-19 pandemic; Commission decision of 2 September 2020 in case SA.58452 (2020/N) – COVID-19: Supporting the activity of breeders in the poultry sector in the context of the economic crisis caused by the COVID-19 pandemic; Commission decision of 2 September 2020 in case SA.58450 (2020/N) – COVID-19: Supporting the activity of breeders in the pig sector in the context of the economic crisis caused by the COVID-19 pandemic; Commission decision of 27 August 2020 in case SA.58166 (2020/N) – COVID-19: Support for SMEs and certain related large enterprises to overcome the economic crisis caused by the COVID-19 pandemic (OJ C 302, 11.9.2020, p. 11); Commission decision of 1 July 2020 in case SA.57408 (2020/N) – COVID-19: Framework scheme for State aid in the form of subsidised loans and guarantees on loans (OJ C 277, 21.8.2020, p. 8); and Commission decision of 10 April 2020 in case SA.56895 (2020/N) – COVID-19: Support scheme for SMEs (OJ C 144, 30.4.2020, p. 19).

<sup>47</sup> 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

<sup>48</sup> See Article 5, paragraph (5)(vi) of the Annex to the Emergency Ordinance.

with aid granted under Sections 3.2 or 3.3 of the COVID-19 Temporary Framework. For different loans, aid granted under Section 2.2 may be cumulated with aid granted under Section 2.3 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 47(e) of the Temporary Crisis Framework.

- (45) The Romanian authorities confirm that when the overall amount of the loan is calculated on the basis of liquidity needs of the beneficiary (point 47(e)(iii) of the Temporary Crisis Framework), the same beneficiary cannot cover with guarantees under the notified aid measure the liquidity needs already covered by aid measures approved by the Commission under the COVID-19 Temporary Framework.
- (46) A beneficiary may benefit in parallel from multiple measures under Section 2.2 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 47(e) of the Temporary Crisis Framework.

## **2.9. Monitoring and reporting**

- (47) The Romanian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 3 of the Temporary Crisis 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 primary agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>49</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

- (48) By notifying the measure before putting it into effect, the Romanian authorities have respected their obligations under Article 108(3) TFEU (recitals (7) and (8)).

### **3.2. Existence of State aid**

- (49) 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.
- (50) The measure is imputable to the State, since the aid granting authority is the Romanian Ministry of Finance, the administration is delegated to public guarantee funds (FNGCGIMM, FGCR and FRC) and it is based on the

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<sup>49</sup> 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 guarantees, the nominal value of the underlying instrument shall be inserted per beneficiary.

Emergency Ordinance and the draft Government Ordinance (recitals (7) and (8)). It is financed through State resources, since it is financed by public funds (recital (11)).

- (51) The measure confers an advantage on its beneficiaries in the form of direct grants and guarantees on loans not in line with market conditions (recital (6)). The measure thus confers an advantage on those beneficiaries and relieves those beneficiaries of costs, which they would have had to bear under normal market conditions.
- (52) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, excluding the financial sector (recital (18)).
- (53) 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.
- (54) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Romanian authorities do not contest that conclusion.

### **3.3. Compatibility**

- (55) 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.
- (56) 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*”.
- (57) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed by the EU or its international partners and the counter measures taken, for example by Russia have created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods, including in the agri-food sector. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Romania. 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 if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian military aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as the economic counter measures taken so far, for example by Russia.
- (58) The measure aims at facilitating the access of undertakings to external finance at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of Romania.

- (59) The measure is one of a series of measures conceived at national level by the Romanian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending by private banks to enterprises during the current crisis is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Romanian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*” and “*Liquidity support in the form of guarantees*”) described in Sections 2.1 and 2.2 of the Temporary Crisis Framework and the requirements for aid in the form of guarantees channelled through credit institutions or other financial institutions described in point 47(h) of the Temporary Crisis Framework.
- (60) 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 relevant conditions set out in the Temporary Crisis Framework. In particular:

3.3.1. *Guarantees under section 2.2 of the Temporary Crisis Framework*

- (61) As regards aid in the form of guarantees on new loans:
- (a) Guarantees may be granted on new individual loans made to undertakings (recital (24)). The measure therefore complies with point 47(a) of the Temporary Crisis Framework.
  - (b) The measure sets minimum levels for guarantee premiums of 25, 50 and 100 bps for SMEs and 50, 100 and 200 bps for large enterprises respectively, for the first year, second to third years, and fourth to sixth years on loans with a maturity of six years (recital (31)). It therefore complies with the guidance provided in point 47(b) of the Temporary Crisis Framework.
  - (c) Guarantees may be granted under the measure by 31 December 2022 at the latest (recital (13)). The measure therefore complies with point 47(d) of the Temporary Crisis Framework.
  - (d) The measure limits the duration of the guarantees to a maximum of 6 years (recital (30)). Those guarantees cover up to 90% of the loan principal and losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State (recital (33)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (33)). The measure therefore complies with point 47(f) of the Temporary Crisis Framework.
  - (e) The maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 47(e) of the Temporary Crisis Framework (recital (26)). The amount of the loan covered by guarantees granted under the measure may be increased to cover specific liquidity needs under point 47(e)(iii) of the Temporary Crisis Framework. This will be used only exceptionally with an appropriate justification by the beneficiary. In particular, Romania justifies the use of this option as being reserved to beneficiaries who can provide evidence (by actual

figures or other adequate explanations and evidence) that they are affected by either: (i) the disruptions of supply chains or outstanding payments from Russia or Ukraine; (ii) increased risks of cyber-attacks; and/or (iii) rising prices for specific inputs or raw materials affected by the current crisis (recital (27)). In this context, the Romanian authorities further submit that this possibility would only be reserved for undertakings operating in sectors particularly affected by the direct or indirect effects of the current crisis, and whose turnover or energy bill is not a good indicator to forecast the expenditures in the coming months (for example, if the beneficiary is a new company or a start-up) or needs more liquidity to withstand the current economic context. The Romanian authorities confirm that the same beneficiary cannot cover with guarantees under the notified aid measure the liquidity needs already covered by aid measures approved by the Commission under the COVID-19 Temporary Framework (recital (45)). The measure therefore complies with point 47(e) of the Temporary Crisis Framework.

- (f) Guarantees granted under the measure relate to investment and working capital loans (recital (20)). The measure therefore complies with point 47(g) of the Temporary Crisis Framework.
- (g) 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 financial advantages of the measure are fully transmitted to the final beneficiaries: since the beneficiaries of the measure will benefit from loans with a lower interest rate, reflecting the decrease in risk and capital requirements for the credit institutions, with a capped margin that will be maintained throughout the credit period in a context of rising interest rates, they will benefit from a clear direct advantage. In addition, the collateral requirements will be lower than under the standard credit approval procedure. The safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (34)). The measure therefore complies with point 47(h) of the Temporary Crisis Framework.
- (h) The cumulation rules set out in point 46 of the Temporary Crisis Framework are respected (recitals (39) to (46)).
- (i) 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 (32)).

### 3.3.2. *Grants and guarantees under Section 2.1 of the Temporary Crisis Framework*

- (62) As regards limited amounts of aid provided under section 2.1 of the Temporary Crisis Framework:
  - (a) The aid takes the form of direct grants and guarantees (recitals (6) and (35)).

- (b) The overall nominal value of aid will not exceed EUR 500 000 per undertaking; all figures used are gross, that is, before any deduction of tax or other charges (recital (36)). The measure therefore complies with point 41(a) of the Temporary Crisis Framework. However, the overall nominal value of the grants does not exceed EUR 62 000 per undertaking active in the primary production of agricultural products, EUR 75 000 per undertaking active in the fishery and aquaculture sectors (recital (36)). The measure therefore complies with point 42(a) of the Temporary Crisis Framework.
- (c) Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (12). The measure therefore complies with point 41(b) of the Temporary Crisis Framework.
- (d) Aid will be granted under the measure no later than 31 December 2022. (recital (13)). The measure therefore complies with point 41(c) of the Temporary Crisis Framework.
- (e) Aid will be granted only to undertakings affected by the current crisis (recital (23)). The measure therefore complies with point 41(d) of the Temporary Crisis Framework.
- (f) Aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned (recital (37)). The measure therefore complies with point 41(e) of the Temporary Crisis Framework.
- (g) The mobilisation of the guarantees granted under Section 2.1 of the Temporary Crisis Framework is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (recital (32) and (35)(a)).
- (h) Regarding guarantees granted under Section 2.1 of the Temporary Crisis 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 financial advantages of the measure are fully transmitted to the final beneficiaries: since the beneficiaries of the measure will benefit from loans with a lower interest rate, reflecting the decrease in risk and capital requirements for the credit institutions, with a capped margin that will be maintained throughout the credit period in a context of rising interest rates, they will benefit from a clear direct advantage. In addition, the collateral requirements will be lower than under the standard credit approval procedure. The safeguards thus ensure that those institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (34) and (35)(a)). The measure therefore complies with point 47(h) of the Temporary Crisis Framework.

- (i) Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (38)(a)). The measure therefore complies with point 42(b) of the Temporary Crisis Framework.
- (j) Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) Commission Regulation (EU) No 717/2014 (recital (38)(b)). The measure therefore complies with point 42(c) of the Temporary Crisis Framework.
- (k) Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 41(a) and 42(a) of the Temporary Crisis Framework, Romania will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 500 000 is not exceeded per undertaking (recital ((38)(c)). Where an undertaking is exclusively active in the sectors covered by point 42(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 75 000 is not exceeded per undertaking (recital (38)(c)). The measure therefore complies with point 43 of the Temporary Crisis Framework.

3.3.3. *Common provisions on relocation, exclusion of certain undertakings as eligible beneficiaries and monitoring*

- (63) The Romanian authorities confirm that, pursuant to point 32 of the Temporary Crisis Framework, 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 (recital (4)).
- (64) The Romanian authorities confirm that, pursuant to point 33 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recital (16)).
- (65) The Romanian authorities confirm that the monitoring and reporting rules laid down in Section 3 of the Temporary Crisis Framework will be respected (recital (47)). The Romanian 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 Crisis Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (39) to (46)).
- (66) 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 Crisis 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.

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

