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European Commission relaxes State aid rules to counter economic impact of COVID-19

On 19 March 2020, the EU's Competition Commissioner Margrethe Vestager has presented the Commission's "Temporary Framework for State aid measures" to help businesses get access to the liquidity and financial support they require to survive the economic crisis caused by the COVID-19 outbreak. Emphasizing the need for a close European coordination of national aid measures, the Framework outlines various ways in which EU governments may support business with a focus on ensuring liquidity, which are outlined below.

The Framework confirms the earlier Communication of 13 March 2020, which pointed out the ways in which Member States can support the economy by measures that do *not* qualify as State aid. These include any measures such as wage subsidies, suspension of tax and social security payments granted to *all* companies (these are general, not selective measures). Further, any financial support given *directly to consumers* is not State aid.

Member States can also design additional support measures in line with the General Block Exemption Regulation without the involvement of the Commission.

Member States can notify to the Commission aid schemes under the rules for rescue and restructuring aid to meet acute liquidity needs and support undertakings facing financial difficulties.

Very importantly, sectors that have been particularly hit by the outbreak (e.g. transport, tourism, culture, hospitality and retail) and/or organizers of cancelled events for damages suffered due to and directly caused by the outbreak can be compensated as well (directly under Article 107(2)(b) TFEU). For this support, the principle of "one time last time" (applicable to rescue and restructuring aid) does *not* apply.

The Temporary Framework adds to the above by introducing additional support measures that can be approved swiftly under Article 107(3)(b). It emphasizes that the Member States can combine aid schemes with individual cases. So if you do not fit into a scheme, do not hesitate to ask for bespoke measures.

The additional measures, most of which can be granted cumulatively, fall into five groups:

- **Aid in form of direct grants, repayable advances or tax advantages**
  Such aid can be grated up to EUR800.000 per undertaking (= corporate group), provided the undertaking was not yet in financial difficulty on 31 December 2019. It must be granted by 31 December 2020. Special rules apply to undertakings in the agricultural and fisheries sectors.
- **Aid in the form of guarantees on loans**
  In order to ensure access to liquidity to undertakings facing a sudden shortage, the Commission will approve State aid in the form of new public guarantees on loans compatible, under certain conditions. that depend on the size of the company (SME or large enterprises) and the maturity of the loan. The guarantee may relate to investment and working capital loans.
- **Aid in the form of subsidized interest rates for loans**
  The conditions for such aid also depend on company size and maturity.
- **Aid in the form of guarantees and loans channeled through credit institutions or other financial institutions**
  If aid in the form of public guarantees and reduced interest rates is provided through credit institutions and other financial institutions as financial intermediaries, special conditions must be complied with to ensure such aid does not indirectly benefit those intermediaries.
- **Short-term export credit insurance**
  Under existing rules, marketable risks cannot be covered by export-credit insurance with the support of Member States. Due to the crisis, in certain countries cover for marketable risks could be temporarily unavailable. Member States may provide sufficient evidence of the unavailability of cover for the risk in the private insurance market, such as (i) a large well-known international private export credits insurer and a national credit insurer produce evidence of the unavailability of such cover; or (ii) at least four well-established exporters in the Member State produce evidence of refusal of cover from insurers for specific operations.

The Temporary Framework applies from 19 March to 31 December 2020. We will continue to monitor the developments and keep you informed. In the meantime, if you have any questions, please feel free to reach out to your regular contact at DLA Piper or the Competition team.

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