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EAPB position on proposed sixth extension and adjustment of the Temporary Framework

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Extension of the Temporary Framework until 30 June 2022

We generally welcome this new extension of the Temporary Framework (TF) by another six months. This is because, on the one hand, of the liquidity and equity capital needs of many companies that continue to exist. On the other hand, in our view, the Temporary Framework also forms a good basis under State aid law for the first post-COVID period of economic recovery and transformation, both for equity financing and for loan financing to strengthen liquidity and investments. Therefore, the Temporary Framework should continue to be available in its full flexibility.

For new guarantees under section 3.1 and 3.2 and loans under 3.3. we however recommend extending the validity of the Temporary Framework for State aid measures by one year, until 31 December 2022. The purpose of the TF is to enable Member States to ensure that sufficient liquidity remains available to entrepreneurs and to preserve the continuity of economic activity during and also following the COVID-19 outbreak. Loans and guarantees are excellent
1 tools to facilitate entrepreneurs' access to finance. Providing a longer, i.e. annual, perspective on support is very important both for entrepreneurs and for financial institutions (sub-intermediaries) offering financing, especially in the model of intermediated financing with a wide range of impacts

Given the exceptional circumstances resulting from the COVID-19 crisis and the prolongation of the economic contraction beyond what had been originally foreseen, an extension of the maximum loan repayment schedule beyond 6 years, say to 8 or 10 years, would also provide critical breathing space to businesses by lowering the monthly commitments on existing loans. Such an extension is all the more necessary in case of businesses that might have been allowed longer moratoria as their repayment period is condensed over a shorter time span. Given the high level of uncertainty that hangs over the recovery of certain sectors an extension of the repayment schedule beyond 6 years under Article 3.2 of the Temporary Framework for State Aid is of critical importance.

The aid ceiling detailed in sections 3.1, and 3.3

The extension of the Temporary Framework should also be accompanied by an increase in the small aid ceiling to at least 3 million euros. In addition, the changes in footnote 19 lead to a tightening of the rules on small aid. Up to now, repayment by the end of the period of validity (currently 31 December 2021, planned 30 June 2022) was decisive for determining whether the ceiling had been exceeded.

It is now planned (points 27, 28 of the draft) that a new small grant may only be approved if the small grant that led to the ceiling being exceeded has already been repaid before approval.

After implementation (but in any case from 2022 onwards), repayment schedules can no longer be used as a basis, and even small-scale aid loans with a full repayment date before 30 June 2022 (there are presumably hardly any cases of application, but they have not been included so far and § 1 (5)) would lead to the borrower having to wait with the new approval or having to repay the loan early in order to approve/receive a new small-scale aid.

The wage bill and total turnover ceilings set in point 27 d (i) and (ii) of section 3.3. should also be increased - at least to the double- taking into consideration especially all the extensions of the TF, a still-high demand for liquidity financing among companies; but also the high rise of wages and prices that companies have been facing in recent months (which makes that present ceilings not adjusted to current and predicted economic situations).

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Longer loan terms for deferments and creditor waivers of parts of the claims

In our view, the Temporary Framework should provide for the possibility of granting deferments, which also entail longer loan terms. Equally necessary would be the possibility for creditors to waive parts of the claims. Deferment and waiver decisions are already pending at the present time, because companies have increasingly exhausted the possibilities of the Temporary Framework under State aid law and are not able to make the repayment as agreed. The basic obligation to repay COVID 19 loans should not lead to the wave of insolvencies that the measures were intended to prevent.

Possibility to extend the terms of guarantees (point no. 11)

The possibility of extending the terms of guarantees under certain conditions even after the expiry of the Temporary Framework should also be created for guarantee contracts that were already concluded at the time of the entry into force of the 6th amendment to the TF. An addition to this effect in point no. 11 is necessary.

Also, in view that the impact of the crisis has lingered much longer than originally anticipated we propose a more flexible approach with regards to point 11 relating to the extension of loan duration. In this sense consideration is to be given to the possibility that the extension would not only be possible where it is stipulated in the original contract but also in cases where such extension possibility may have not been stipulated under the original guarantee agreement. This would provide the necessary flexibility to cater for situations where the need for an extension of the duration had not been anticipated at inception and arises after inception due to difficulties brought about by the longer than expected pandemic.

Definition of undertakings in difficulty

In addition, the definition of undertakings in difficulty (UID), and in particular the criterion of the disappearance of own funds, also causes difficulties for many companies, especially SMEs. Since during the COVID 19 crisis many companies had a high loss of equity, and this problem is expected to intensify. In this respect, it is important to correctly reflect the economic circumstances in the UID and, in particular, to offset subordinated loans as fully-fledged equity capital in the calculation of capital loss.

Outside of the Temporary Framework, the UID definition should be changed. Only by adapting the UID definition to the post-COVID 19 situation can it be prevented that- after the expiry of the Temporary Framework- companies are classified as UID due to their crisis-related high equity loss and are thus excluded from many support programmes. One such adjustment could be **to use 31 December 2019 as the cut-off date for the UID definition even after the expiry of the Temporary Framework, or to generally abandon the application of the criterion of equity loss**.

A similar approach was already chosen in the last amendment of the General Block Exemption Regulation (GBER). This measure should be also applied to all State aid rules after the expiry of the Temporary Framework. Such a Corona-UID exemption could be granted for a limited period until 31st of December 2024.

Increasing the aid intensity of the new investment support measures (3.13)

The scope of the Temporary Framework should extended to include future-oriented investment support measures. At this point we advocate increasing the aid intensity proposed by the Commission from 15% to at least 30%. This would provide a better incentive to overcome the investment gap that has arisen due to the crisis.

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