



EUROPEAN COMMISSION

Brussels, 12.11.2020
C(2020) 7981 final

PUBLIC VERSION

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**Subject: State Aid SA.58555(2020/N) – Greece
COVID-19: Temporary primary residence protection scheme**

Excellency,

1. PROCEDURE

- (1) From July until October 2020, the Greek authorities and the Commission had a number of pre-notification contacts regarding the establishment of a temporary primary residence protection scheme in Greece, to support debtors that encounter difficulties in repaying their loans backed by main residences due to the COVID-19 outbreak (“the Scheme”).
- (2) On 31 July 2020, Greece adopted law 4714/2020 concerning public support to vulnerable debtors that due to the COVID-19 outbreak encounter difficulties repaying their loans backed by main residences (“the Law”) with a standstill clause concerning State aid approval.
- (3) By letter dated 3 November 2020, Greece agreed 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 1/1958¹ and to have the present decision adopted and notified in English.
- (4) On 30 October 2020, Greece notified the Scheme to the Commission.

¹ Council Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

Κύριος Νίκος Δένδιας
Υπουργός Εξωτερικών
Βασιλίσσης Σοφίας 5
Grèce - 10671 Αθήνα

2. CONTEXT OF THE CURRENT COVID-19 SCHEME

- (5) In 2019, Greece already established a primary residence protection scheme, which was approved by the Commission on 19 September 2019 (“the Original Scheme”)². The Original Scheme targeted only borrowers with non-performing loans (“NPLs”) and set strict eligibility criteria in terms of the value of the primary residence and income of the borrower. Eligible borrowers were able to receive a grant corresponding to 20% to 50% of their monthly loan payment depending on their income. The period for submission of applications was set from 1 July 2019 until 31 December 2019.
- (6) In the decision on the Original Scheme, the Commission concluded that, with respect to individuals, including those performing an economic activity, the measure does not involve any State aid, as the individuals either are no undertakings or the support granted is below the *de minimis* thresholds, thereby not having any effect on trade between Member States.
- (7) The Commission also assessed any indirect aid to banks and found that the Scheme provided an indirect advantage because it increases the amount of repayment the banks are likely to receive from the NPLs. At the same time, the Commission's assessment showed that this indirect aid did not create undue distortions of competition because the aid is limited to what is necessary to achieve its objective of ensuring that borrowers do not lose the house in which they live. Moreover, since all banks established in Greece participated in the scheme, it was non-discriminatory among them.
- (8) The Original Scheme described the weak economic development in Greece in the past years and highlighted the vulnerabilities that a significant share of the population has been facing³. While there has been a positive trend observable in 2019 and the beginning of 2020, the COVID-19 outbreak has been a major shock for the global and EU economies, with very severe socio-economic consequences also for Greece⁴ that affected large parts of the population.

3. OBJECTIVES OF THE SCHEME

- (9) The Greek authorities main objective for the current scheme is to safeguard the primary residence of vulnerable debtors, which have been affected by the impact of the COVID-19 outbreak on the Greek economy, against the risk of repossession, through the provision of State financial support for a limited period of time (i.e. nine months from the date of the approval of their application).
- (10) Similar to the Original Scheme, the intention is to allow vulnerable debtors who had the intention to restructure their non-performing loans⁵ and denounced loans to go ahead with the restructuring, although they are being negatively affected by

² Commission decision in case SA.53520(2019/N) – Greece - Primary Residence Protection Scheme, OJ C 396, 22.11.2019, p. 4.

³ See recital 7 of the Original Scheme.

⁴ For example, the Commission estimates in its economic Summer Forecast a GDP contraction of 9% for Greece in 2020.

⁵ This means loans of which the payment is more than 90 days past due.

the impact of the COVID-19 outbreak, in order to avoid repossession of their primary residence. The Scheme also includes debtors who are not affected by the impact of the COVID-19 outbreak themselves, but whose spouse or dependant family members are.

- (11) In addition, the objective is to reward debtors who are consistent in their repayment obligations but affected by COVID-19 and also to avoid that those vulnerable debtors, whose financial situation deteriorated due to the impact of the COVID-19 outbreak on the Greek economy and who still have performing loans (or whose loans have been restructured and are performing again⁶), are at risk of losing their primary residence.

4. FUNCTIONING OF THE SCHEME

- (12) In order to receive support under the Scheme, eligible debtors have to be impacted by the COVID-19 outbreak and must have not benefitted from the Original Scheme as will be explained in section 4.1, their loans have to be secured by their primary residence and not supported by another public measure as explained in section 4.2, and finally debtors have to fulfil certain additional means criteria depending on the category of the loan, as explained in section 4.3.

4.1. Eligible debtors and criteria to define impact by COVID-19 outbreak

- (13) The final recipients of the Scheme include natural persons⁷, including individuals that offer services or products in the market (professionals, self-employed & small business owners). The final recipients, or their spouses or dependent members, must have been directly or indirectly affected by the COVID-19 outbreak and fulfil certain means criteria.
- (14) In particular, in order for debtors⁸ to be considered as financially negatively affected (directly or indirectly) by the COVID-19 outbreak (and therefore be eligible to participate in the Scheme), they should fall under one or more of the following categories:
- (a) Natural persons employed by private companies who:
 - (i) Have received financial aid under the State COVID-19 measures⁹;
or
 - (ii) Have suffered a reduction of the average gross monthly payroll of March and April 2020 (as declared in the Social Security

⁶ It should be noted that loans of this category are still categorized as non-performing exposures, and not as performing loans, according to EBA rules.

⁷ Irrespective of whether they have legal standing to be declared bankrupt in accordance with Greek law.

⁸ As the term is defined in art. 72 par. a of L. 4714/2020, i.e. including guarantors and co-debtors, hereinafter referred to as debtors.

⁹ By virtue of Article 13 of the Legislative Act of 14.3.2020 (G.G. 64/A/2020) as ratified by Article 3 of Law 4682/2020 (G.G. 76/A/2020), and by virtue of Article 11 of the Legislative Act of 20.3.2020 (G.G. 68/A/2020), as ratified by Article 1 of Law 4683/2020 (G.G. 83/A/2020).

Institutions) compared to the respective payroll of January and February 2020 as follows:

- For amounts up to EUR 1 000, the reduction is equal or greater than 10%.
- For amounts from EUR 1 000.01 until EUR 2 000, the reduction is equal or greater than 20%.
- For amounts above EUR 2 000, the reduction is equal or greater than 30%.

- (b) Professionals/self-employed and small businesses which:
 - (i) Have received financial aid under the State COVID-19 measures; or
 - (ii) Have suffered in Q2 2020 a reduction of the revenue amounting to 20% or greater, compared to the Q2 2019 revenue, as evidenced by the relevant VAT tax declarations.
- (c) Unemployed or long-term unemployed who have received the financial support aid under the State COVID-19 measures.
- (d) Natural persons who are owners of real estate property and who were forced by law to receive reduced rent under the State COVID-19 measures.
- (e) Partners to companies of which the operations were suspended by law and/or have received the financial support under the State COVID-19 measures.
- (f) Individuals, who received financial support under the “advance-payment return” measure, as provided for under the State COVID-19 measures, whose income was reduced as a result of the COVID-19 outbreak.
- (g) “Dependent” family members¹⁰ and spouses of individuals falling under one of the above categories (a) to (f).

- (15) Furthermore, any debtors interested in participating in the Scheme have to satisfy all of the following conditions:
 - (a) have a real property lien, consisting of an exclusive or ideal share on full or bare ownership or usufruct of a property, being the main residence of the applicant. The property must be located in Greece;
 - (b) have not benefited from the Original Scheme. It is however possible to apply to the current Scheme provided that ongoing proceedings under the Original Scheme are terminated prior to the submission of the application under the Scheme;

¹⁰ As defined under Article 11 of law 4172/2013.

- (c) have not been subject to the bankruptcy law in Greece and relevant debt settlement regulation¹¹ (even if the process was not successful), nor can an application of debt settlement be pending under the above provisions. Such persons may be applicants under the Scheme provided that they discontinue the above proceedings prior to the submission of the application under the Scheme;
- (d) there must not be any State guarantee or any kind of active State aid on the eligible debt at the time of the submission of the application under the Scheme.

4.2. Eligible debts and categories of loans

- (16) The Scheme covers mortgage, consumer and small business loans that are backed by the primary residence of the eligible debtors¹². The loans eligible under the Scheme can be performing loans (“Performing Loans”)¹³, NPLs or denounced loans (“Denounced Loans”):
 - (a) Performing Loans are considered loans with less than 90 days past due as of 29 February 2020;
 - (b) NPLs are considered loans with more than 90 days past due as of 29 February 2020;
 - (c) Denounced Loans are considered NPLs that additionally have been denounced by the financial institution concerned and are in various stages of legal proceedings as of 29 February 2020.
- (17) The Scheme excludes from its scope loans which receive or are about to receive in the future (pending process closure) any form of State subsidy or State guarantee (e.g. under the Original Scheme, an interest rate subsidy scheme, State-guaranteed loans due to a disaster such as fire or earthquake).
- (18) The loans must be held by financial institutions licensed by Bank of Greece including credit institutions that are under special liquidation, and specialised NPL management companies, which fall under the supervision of the Bank of Greece or of the European Central Bank’s Single Supervisory Mechanism. This will also include a creditor which acquired claims by credit institutions or by means of securitisation through an NPL management company or the entity authorised by law for the management of securitised claims respectively (together the "Financial Institutions" or “creditors”).

¹¹ This means Article 99 of law 3588/2007, Articles 61-67 of law 4307/2014, law 4469/2017.

¹² This means they have to fall under the following categories: (a) exposures of debtors secured by their primary residence; (b) mortgage exposures and/or consumer exposures secured by the primary residence, with no business loans among the debtor’s exposures; (c) exposures secured by the primary residence for which at least one of the debtor’s exposures is a business loan.

¹³ Including loans that have been restructured or not, regardless of their official classification, as explained in footnote 6.

4.3. Means criteria depending on the category of the loan

(19) Depending on the category of loan concerned, the following additional (in addition to the criteria of section 4.1) eligibility criteria (loan and means criteria) shall be fulfilled, respectively:

	Performing Loans	NPLs	Denounced loans
Status of the loans as of 29 February 2020	Less than 90 days past due	More than 90 days past due (non-denounced)	More than 90 days past due and denounced by the Financial Institution
For a one-person household, household income not exceeding, during the last financial year / increase for the spouse / increase for each dependent member and for up to three dependent members	EUR 24 000 / EUR 18 000 / EUR 5 000	EUR 17 000 / EUR 13 000 / EUR 5 000	EUR 12 500 / EUR 8 500 / EUR 5 000
value of primary residence not exceeding, at the time of submission of the application to the Scheme	EUR 300 000	EUR 250 000	EUR 200 000
financial assets ¹⁴ not exceeding	EUR 40 000	EUR 25 000	EUR 15 000
loan balance per creditor of up to	EUR 300 000	EUR 250 000	EUR 130 000
immovable property of the applicant, spouse, and dependent members, also including the primary residence of the applicant, not exceeding	EUR 600 000	EUR 500 000	EUR 280 000
means of transport ¹⁵ acquired by and in the possession of the applicant during the last three years for private use not exceeding	EUR 80 000	EUR 80 000	EUR 80 000

¹⁴ This means bank deposits, investment products, in Greece and abroad, which positively affect the affordability of debtor.

¹⁵ This means private cars, leisure boats, airplanes, and helicopters.

- (20) For Denounced Loans, in case of a guarantor of loans and/or person jointly and severally liable for the loans, each one of them should personally satisfy the following eligibility criteria:
- (a) personal income not exceeding the amount of EUR 12 500;
 - (b) immovable property not exceeding the amount of EUR 280 000;
 - (c) besides satisfying the above criteria under (i) and (ii), the guarantor and/or person jointly and severally liable, must also fall under one of the categories of COVID-19-affected persons as defined in recital (14).

4.4. Financial contribution by the State

- (21) The State's financial contribution provided for under the Scheme shall cover a percentage of each monthly instalment, subject to a cap in terms of absolute amounts, of the eligible loan for a pre-set time period of nine months¹⁶.
- (22) The Scheme provides for a maximum amount of subsidy per monthly instalment for each eligible loan depending on its loan category, as follows:
- (a) The maximum amount of subsidy for each monthly instalment for Performing Loans shall not exceed the amount of EUR 600 (i.e. EUR 5 400 over a period of nine months).
 - (b) The maximum amount of subsidy for each monthly instalment for NPLs shall not exceed the amount of EUR 500 (i.e. EUR 4 500 over a period of nine months).
 - (c) The maximum amount of subsidy for each monthly instalment for Denounced Loans shall not exceed the amount of EUR 300 (i.e. EUR 2 700 over a period of nine months).
- (23) Furthermore, the percentage of the monthly instalment covered by the State shall vary depending on the category of the eligible loan and shall be gradually reduced, as follows¹⁷:
- (a) For the 1st quarter - after the amount of the instalment has been communicated by the Financial Institution - the State will subsidise 90% of the monthly loan instalment for Performing Loans, 80% for NPLs, 60% for Denounced Loans;

¹⁶ With regard to loans whose instalments are not calculated on a monthly basis, the Scheme provides that the State contribution covers nine months and it is payable at the time the instalment is claimed by the financial institution. In such a case, the total of the outstanding capital of the debt, including accounting interest, shall not exceed the limits stated per loan category and per creditor, as defined in recital (19).

¹⁷ The coverage of only a certain percentage shall support the payment culture of borrowers, in particular in the cases of NPLs and Denounced Loans.

- (b) for the 2nd quarter - after the amount of the instalment has been communicated by the Financial Institution - the State will subsidise 80% of the monthly loan instalment for Performing Loans, 70% for NPLs, 50% for Denounced Loans;
 - (c) for the 3rd quarter - after the amount of the instalment has been communicated - the State will subsidise 70% of the monthly loan instalment for Performing Loans, 60% for NPLs, 30% for Denounced Loans.
- (24) With respect to eligible debtors performing an economic activity, the total amount of State contribution, with respect to their business loans, shall be capped and shall not in any case exceed a ceiling of EUR 200 000, the *de minimis* threshold in accordance with Commission Regulation (EU) No 1407/2013. With respect to business loans held by eligible debtors that are undertakings active in the primary sectors of production of agricultural products, fishery and aquaculture, the Greek authorities will ensure that the provisions of Commission Regulation (EU) No 1408/2013 and Commission Regulation (EU) No 717/2014, including the respective thresholds, will be respected accordingly.
- (25) The respective ceiling will be reduced – on a case by case basis – by an amount equal to the aggregate of the *de minimis* support received by the relevant eligible debtor during the previous two fiscal years and the current fiscal year. This will ensure that each eligible debtor, which is an undertaking having a business loan benefitting from the Scheme, does not receive support in excess of the respective *de minimis* ceiling. In case an applicant has already reached the respective *de minimis* ceiling by the time of submission of the application to participate in the Scheme, the applicant shall not be entitled to receive a State contribution under the Scheme.
- (26) Overall, the Greek authorities estimate a budget for the Scheme of approximately EUR 665.7 million, covering an amount of eligible loans equal to EUR 13.8 billion. The budget is estimated to be distributed to the different loan categories approximately as follows:
- (a) the support relating to Performing Loans is estimated at approximately EUR 540.7 million;
 - (b) the support relating to NPLs is estimated at approximately EUR 65.5 million; and
 - (c) the support relating to Denounced Loans is estimated at approximately EUR 59.5 million.

4.5. Application process

- (27) Debtors submit¹⁸ the relevant application via an electronic platform of the General Secretary for Private Debt¹⁹. The application shall be submitted until 31 October 2020.
- (28) The platform shall perform eligibility checks²⁰ concerning e.g. the general eligibility criteria, specific criteria of the different loan categories, the exclusion of multiple simultaneous applications and the financial situation of the debtors and their family.
- (29) For NPLs and Denounced Loans, for the application to proceed, the debtor and the creditor should agree on a mutually acceptable and long-term viable restructuring plan for the loan. To this end, the debtor should provide the necessary documents within fifteen days at the latest. Afterwards and provided the creditor proposes a restructuring agreement to the debtor, the latter should accept or reject it within fifteen days from the date of receipt of the debt restructuring proposal. The process shall be complete by 31 December 2020 at the latest.
- (30) If all loans are performing or have been restructured, the debtor is eligible for subsidisation and the creditor provides information on the monthly instalments and payment details, for the deposit of the subsidy. The entire approval process under this step is currently foreseen to be complete by 31 December 2020, as per the current planning²¹. In any case the approval process shall be completed by 30 June 2021.
- (31) Special provisions apply where eligible debtors have benefitted from a suspension of instalments of their debt²². In such a case, if the debt is considered as eligible under the Scheme, the suspension of instalments shall not be further extended. In any case, the State financial contribution will not be granted for more than nine months from 31 December 2020, and in any case not later than 30 June 2021²¹.
- (32) A special procedure also applies in case of multiple eligible debts on the primary residence; the subsidy is approved for the entirety of debts, per creditor. Additionally, every eligible debt may be subsidised under the Scheme only once, even if multiple eligible debtors may have submitted more than one application on this same debt.

¹⁸ For Denounced Loans, spouses, dependent family members, guarantors and persons jointly and severally liable, are required to co-sign the application.

¹⁹ The General Secretariat for Private Debt is an independent public service, established under Law 4389/2016 and following Presidential Decree 81/2019 under the competence of the Ministry of Economy. Its main objective is to fight against overindebtedness through the legislative framework, which allows for debt settlement of natural and legal persons and protection of their primary residence, as applicable and in force.

²⁰ This happens also based on information provided by the Financial Institutions.

²¹ However, it cannot be excluded that the administrative process may take longer depending on the amount and complexity of applications. Therefore, the Greek authorities indicate that the granting of the aid under the Scheme will have taken place until 31 March 2021, and in any case not later than 30 June 2021.

²² As per the Legislative Act of 30 March 2020, as ratified by virtue of Law 4684/2020.

- (33) Ultimately, the final approval of the subsidy is communicated to all competent authorities and the payments of the subsidy are conducted on a monthly basis²³. The payments of all debtors during and after the subsidy concludes will be monitored and all data that will allow the execution of sample checks is obtained to ensure a proper implementation and compliance with the conditions of the Scheme.

4.6. Safeguards to prevent the misuse of the Scheme

- (34) The Scheme foresees several safeguards intended to discourage debtors to misuse the State contribution.
- (35) In this respect, the State shall verify in every step of the application process the satisfaction of the eligibility criteria by the applicant. To this end, the State shall perform all necessary crosschecks based on all available data.
- (36) With a view to enhancing the payment culture of the debtors, the Scheme does not cover the entire amount of the monthly instalment of the eligible loan. The debtor is required in all cases to pay a certain amount of the loan, even if the loan is listed as Performing Loan.
- (37) In addition to the above, the debtor undertakes the commitment to continue paying the loan for a minimum period following the nine-month period of subsidisation (“Probation Period”). The duration of the Probation Period varies depending on the status of the subsidised loan. It equals six months for Performing Loans, twelve months for NPLs, and eighteen months for Denounced Loans.
- (38) In addition, during both the subsidisation period and the Probation Period the State shall monitor the compliance of the final recipients with the obligations they have undertaken under the Scheme.
- (39) In case the beneficiary fails to meet his repayment obligation during the Probation Period, the State shall recover (by all legal means) from the defaulted debtor any amounts of State contribution paid by the State up until that date, with due interest; compliance with this obligation shall be monitored throughout the duration of the Probation Period.
- (40) Furthermore, the safeguards provided for under the Scheme include the following:
- (a) The payment by the eligible debtor of his portion of monthly instalment shall be a prerequisite for the disbursement of the respective State financial contribution; compliance checks are performed by the State on a monthly basis;

²³ Special provisions apply with regard to loans whose instalments are not calculated on a monthly basis as explained in footnote 13.

- (b) the State contribution is discontinued in case the applicant fails to pay his share of each monthly instalment. In such case, the creditor notifies the platform within thirty working days from the date of expiry of the debtor's missed deadline;
- (c) the State contribution shall cease in case it is found that the applicant has made false representation in relation to the fulfilment of the eligibility criteria;
- (d) all State financial contribution under the Scheme shall be without prejudice to the applicable *de minimis* rules with regard to business debts of natural or legal persons exercising business activities.

5. POSITION OF GREECE

- (41) Greece submits in its notification that the grant available under the Scheme does not constitute State aid within the meaning of Article 107(1) TFEU to the eligible debtors. This includes both individuals not performing an economic activity and those that are performing such an economic activity and are therefore considered undertakings.
- (42) With respect to individual borrowers not performing an economic activity, Greece argues that only natural persons who have loans secured by their protected main residence are eligible to receive the State grant. Therefore, they cannot be regarded as undertakings within the meaning of Article 107(1) TFEU.
- (43) With respect to business loans to undertakings, Greece submits that the maximum amount of the subsidy is restricted to EUR 200 000, thus the State support would qualify as support under the *de minimis* Regulation. With respect to business loans to undertakings in the primary production of agricultural products and in the fishery and aquaculture sector, the maximum State grant will not exceed the aid thresholds and caps stipulated in the Regulations for *de minimis* aid in the agricultural sector and fishery and aquaculture sector respectively. The Greek authorities will ensure the compliance of the Scheme insofar as undertakings are concerned with the requirements of the applicable *de minimis* Regulations²⁴. In particular, they will establish a monitoring mechanism to ensure that each undertaking benefitting from the Scheme does not receive support in excess of the respective *de minimis* ceiling and that the provisions on cumulation are complied with. Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with the applicable *de minimis* Regulations, the granting authorities, by appropriate means such as separation of

²⁴ Depending on the sector, the following *de minimis* Regulation are in place; i) 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, ii) Regulation (EU) 2019/316 amending Regulation (EU) No 1408/2013 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 and iii) 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.

accounts, ensure that for each of these activities the relevant ceiling is respected and that the highest possible amount is not exceeded in total.²⁵

- (44) With respect to Financial Institutions, Greece takes into consideration the position adopted by the Commission on indirect aid to Financial Institutions in a similar scheme²⁶ and in the Original Scheme. Therefore, Greece does not contest the potential existence of indirect State aid to the Financial Institutions participating in the Scheme as a result of the financial support provided to Eligible Borrowers.
- (45) Greece submits that, for NPLs and Denounced Loans, they consider any potential indirect State aid to Financial Institutions to be compatible under Article 107(2)(a) TFEU for individual borrowers not performing an economic activity and under Article 107(3)(c) TFEU for undertakings.
- (46) Moreover, Greece submits that for performing loans, which as explained above in recital (11) were not covered by the Original Scheme, any potential indirect aid to Financial Institutions may be considered compatible under Article 107(3)(b) TFEU.
- (47) With regard, in particular to performing loans, Greece submits that the Scheme by design ensures that aid is not granted to undertakings in difficulty or small or micro companies²⁷ subject to insolvency proceedings on 31 December 2019. Target beneficiaries under the Scheme are mostly individuals falling outside of this definition and in case of undertakings the income, wealth and loan criteria are significantly below the thresholds to classify as a small (or even medium) undertaking²⁸. In addition, another eligibility condition to participate in the Scheme is that applicants must not have been subject to the bankruptcy law or a relevant debt settlement regulation and that they discontinue any pending application for them before applying for the Scheme. Finally, the fact itself that for this loan category the subsidised loan is performing allows the conclusion that the debtor is not subject to insolvency proceedings.

²⁵ As described in recitals (24) and (25), this holds *mutatis mutandis* for *de minimis* support in the primary sectors of production of agricultural products as well as fishery and aquaculture.

²⁶ See Commission decision in case SA.49554 (2018/N) – Cyprus – Cypriot scheme for non-performing loans collateralized with primary residences (Estia). OJ C 14, 11.01.2019, p. 3.

²⁷ As these are defined in the 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 (“General Block Exemption Regulation”), 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 of 1.7.2014, p.1, (‘the Agricultural Block Exemption Regulation’), or 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 of 24 December 2014, p. 37 (‘the Fisheries Block Exemption Regulation’).

²⁸ Greece further submits that this reasoning also applies in the marginal cases where the applicant is a guarantor/co-debtor of the loan and has placed their primary residence as collateral for the business loan of an undertaking (natural or legal person). Also there it can be presumed that the latter most probably will not be a medium enterprise or large company, taking into account the loans and means criteria set in the Scheme and more specifically, the value of the primary residence serving as collateral (EUR 300 000 at most) in conjunction with the loan balance (EUR 300 000 at most).

- (48) Further, Greece notes that any indirect aid provided to Financial Institutions under the Scheme does not fall within the scope of Directive 2014/59/EU on bank recovery and resolution²⁹.

6. ASSESSMENT

6.1. Existence of aid

- (49) According to Article 107(1) TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.
- (50) The Scheme has been drawn up in the Law proposed by the Greek government and adopted by the Greek parliament, while the implementation details thereof were determined through a Joint Ministerial Decision. The support under the Scheme is to be disbursed by a public organisation to the Financial Institutions, which thereby will receive a share of the instalments of eligible debtors' loans. Therefore, the notified aid Scheme is created by the Greek State and funded from the budget of Greece. It follows that the measure is imputable to the State and that State resources are involved.
- (51) In the case of the Scheme, there are two possible groups of beneficiaries, namely the eligible debtors and the Financial Institutions, which underwrote and/or are holding the loans on their balance sheet.

6.1.1. Eligible Borrowers

- (52) The Commission notes that the assessment of the existence of aid to eligible borrowers follows the same logic as in the decision concerning the Original Scheme³⁰.
- (53) The Scheme covers generally natural persons residing in the property underlying the mortgage contract, who cannot be regarded as undertakings within the meaning of Article 107(1) TFEU and, thus, assistance to them falls outside the scope of State aid rules.
- (54) As noted in recital (14), the Scheme also covers natural persons, which offer goods and services on the market and are therefore undertakings within the meaning of Article 107(1) TFEU. The Commission notes that the maximum State grant (over three years) on the scheme will not exceed EUR 200 000 and therefore will be within the *de minimis* ceiling. With respect to business loans to undertakings in the primary production of agricultural products and in the

²⁹ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms ("BRRD"), OJ L 173 of 12.06.2014, p. 190. Greece also refers to the inapplicability of Regulation 806/2014/EU on a Single Resolution Mechanism and a Single Resolution Fund ("SRMR"), whose provisions regarding State aid correspond to the greatest extent possible to the relevant provisions of the BRRD. Therefore, Greece submits that references to the BRRD should also be understood as references to the SRMR.

³⁰ See recitals (41) to (43) of the decision SA.53520.

fisheries and aquaculture sector, the maximum State grant will not exceed the aid thresholds and caps stipulated in the Regulations for *de minimis* aid in the agricultural sector and fishery and aquaculture sector respectively. Moreover, Greece will ensure that all requirements of the respective *de minimis* Regulations, including cumulation, are complied with.³¹ Therefore, as regards natural persons constituting undertakings, the Commission observes that the conditions of the *de minimis* Regulations are met and, as a result, the measure at stake is deemed not to have any effect on trade between Member States and not to distort or threaten to distort competition.

- (55) The Commission therefore concludes that the grants provided under the Scheme to the benefit of individual mortgage borrowers do not meet all the criteria laid down in Article 107(1) TFEU.

6.1.2. *Financial Institutions*

- (56) The Scheme provides for the grant to be channelled to the eligible debtors via Financial Institutions, which are considered undertakings and thus fall within the scope of State aid rules.

- (57) In assessing the economic effect of the Scheme on the Financial Institutions, the Commission observes that (following the same logic as in the assessment in the Original Scheme³²), for NPLs and Denounced Loans:

- (a) If the loans do not turn performing as a result of the Scheme, the situation for the Financial Institutions would not change as compared to the current situation. The Financial Institutions would eventually³³ have recourse to the loans' collateral up to their outstanding nominal amount, including through the foreclosure process.
- (b) If the loans turn performing as a result of the Scheme, the Financial Institutions will be able to restart collecting cash-flows, as long as the borrowers do not re-default, up to the loans' restructured nominal amount. This amount may be lower than the outstanding nominal amount, depending on the terms agreed between the debtors and their creditors.

- (58) The Scheme would then have two opposite effects on the Financial Institutions:

- (a) On the one hand, the State subsidy will help the defaulted borrower to restart paying the restructured loans to the Financial Institutions. This entails a positive economic effect for the Financial Institutions as long as the loans' restructured nominal amount is higher than the potential proceeds from the banks' recourse to the loans' collateral, including through the foreclosure process, under the current loans' terms.

³¹ See recitals (24) and (25).

³² See recitals (45) to (52) of the decision SA.53520.

³³ Notwithstanding the temporary suspension due to the COVID-19 outbreak and the closure of courts as well as the moratorium on debt payments.

- (b) On the other hand, the Financial Institutions may give up the potential repayment of more than the restructured amount of the mortgage achieved through other means as long as the restructured nominal amount is lower than the outstanding nominal amount.
- (59) To the extent that the Scheme is effective in improving the perspectives of the Financial Institutions to turn the NPLs and Denounced Loans into performing loans, it is a reasonable assumption that the positive effect (of recovering a value higher than the proceeds from the recourse to the loans' collateral and up to the restructured nominal amount) would tend to prevail over the negative effect (of giving up a potential upside above the restructured nominal amount and up to the outstanding nominal amount). Moreover, since the restructuring of the loans requires the Financial Institutions' agreement, the Commission presumes that such agreement is provided only if the respective Financial Institution has concluded that the abovementioned positive effect prevails over the negative effect.
- (60) In conclusion, as far as NPLs and Denounced Loans are concerned, the Financial Institutions seem to benefit indirectly from the Scheme and its embedded subsidies.
- (61) As regards Performing Loans, which were not covered by the Original Scheme, if these loans were to remain performing even in the absence of the Scheme, the situation of the Financial Institution would not change. If the loans however turned non-performing in the absence of the Scheme, the Financial Institutions may incur losses.
- (62) Notably, in the current economic circumstances caused by the COVID-19 outbreak and the containment measures introduced by Greece to address the outbreak, the probability that performing loans become non-performing has increased. Indeed, as explained by the Greek authorities the present conditions have an adverse impact on the available household income. In view of the crisis caused as a result of the COVID-19 outbreak, a large number of households face severe difficulties in servicing their financial obligations which results in an increased likelihood of default. It is projected that a significant percentage of households with mortgage related arrears will be recorded in 2020 which is estimated to be about 17,8% higher as compared to the previous year. As Greece further reports, it is remarkable that these difficulties concern also wealthier households as compared to the Original Scheme. In view of the foregoing, to the extent that the Scheme reduces the likelihood that Performing Loans become non-performing, it confers an indirect advantage to the Financial Institutions.
- (63) In conclusion, also as far as Performing Loans are concerned, the Financial Institutions seem to benefit indirectly from the Scheme and its embedded subsidies.
- (64) The advantage is selective because it is only available to Financial Institutions, as opposed to other businesses that supply goods and services. Amongst these, it is only open to those, which hold loans that are secured against the debtors' primary residences, subject also to further detailed criteria for the debtor's eligibility.

- (65) As the Scheme gives an economic advantage to the Financial Institutions, which are competing on the banking market, the Commission notes that the Scheme potentially distorts competition.
- (66) Regarding trade between Member States, the Commission notes that intra-Union trade should be considered affected once a national measure reinforces the position of an undertaking as regards its competitors. It is not necessary that the beneficiary undertaking takes part itself in intra-Union trade. The circumstance that an economic sector, such as that of financial services, has been the object of a significant process of liberalisation at the level of the Union, which has accentuated competition, gives rise by its nature to a real or potential effect of aid, such as the Scheme, on trade between Member States.
- (67) Therefore, as the measure is imputable to the State, involves State resources, provides a selective advantage to certain Financial Institutions engaged in an economic activity, affects trade between member States and distorts or threatens to distort competition in the internal market, the Commission concludes that the Scheme partly constitutes State aid within the meaning of Article 107(1) TFEU.

6.2. Lawfulness of the measure

- (68) By notifying the measure before authorising the grant of any aid to the final beneficiaries, the Greek authorities have respected their obligations under Article 108(3) TFEU.

6.3. Scope and criteria for assessing the compatibility

6.3.1. Legal basis for the compatibility assessment

- (69) It is necessary to examine the Scheme's compatibility with respect to the indirect aid to the Financial Institutions in the light of Article 107 TFEU. The compatibility will be assessed under three distinct legal bases. More specifically:
- (a) With regard to NPLs and Denounced Loans and the different groups of debtors in these two loan categories the compatibility assessment replicates the reasoning outlined in the decision on the Original Scheme³⁴:
- (i) Article 107(2)(a) TFEU constitutes the compatibility basis for natural persons (not constituting undertakings) as final recipients.
- (ii) Article 107(3)(c) TFEU serves as the applicable compatibility basis with regard to natural persons constituting undertakings within the meaning of Article 107(1) TFEU as final recipients.
- (b) With respect to Performing Loans, the compatibility of the indirect aid to the Financial Institutions will be assessed under the Article 107(3)(b) TFEU, in analogy to Sections 3.1 and 3.4 of the Temporary Framework

³⁴ See recitals from (55) to (60) in the decision SA.53520.

for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).³⁵

- (70) For the avoidance of doubt and as described in recital (69)(a), the indirect aid with regard to NPLs and Denounced Loans will not be assessed under Article 107(3)(b) TFEU. Concerning the indirect aid to the Financial Institutions described in recital (69)(b) which will be assessed under Article 107(3)(b) TFEU, the Commission refers to point 6 of the Temporary Framework, which clarifies that aid granted by Member States under Article 107(3)(b) TFEU under the Temporary Framework to undertakings, which is channelled through banks as financial intermediaries, benefits those undertakings directly. Such aid does not have the objective to preserve or restore the viability, liquidity or solvency of banks. This reasoning also applies to the present Scheme, as further detailed below. Therefore, the Crisis Communications³⁶ detailing the compatibility assessment under Article 107(3)(b) TFEU for aid to financial institutions are not applicable for any of the indirect aid.

³⁵ 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, and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340I, 13.10.2020, p. 1–10.

³⁶ Communication on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis ("*2008 Banking Communication*"), OJ C 270, 25.10.2008, p. 8; Communication on the recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition ("*Recapitalisation Communication*"), OJ C 10, 15.1.2009, p. 2; Communication from the Commission on the treatment of impaired assets in the Community financial sector ("*Impaired Assets Communication*"), OJ C 72, 26.3.2009, p. 1; Communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules ("*Restructuring Communication*"), OJ C 195, 19.8.2009, p. 9; Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of financial institutions in the context of the financial crisis ("*2010 Prolongation Communication*"), OJ C 329, 7.12.2010, p. 7; Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of financial institutions in the context of the financial crisis ("*2011 Prolongation Communication*"), OJ C 356, 6.12.2011, p. 7 and Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis ("*2013 Banking Communication*") OJ C 216, 30.07.2013, p. 1.

6.3.2. *Compatibility of the indirect aid to the banks flowing from the support to natural persons with NPLs and Denounced Loans: assessment under Article 107(2)(a) TFEU*

- (71) With respect to the indirect aid to Financial Institutions flowing from the support to natural persons (not constituting undertakings), it can benefit from the exception for aid having a social character as laid down in Article 107(2)(a) TFEU.
- (72) Article 107(2)(a) TFEU provides that "*aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned*" shall be compatible with the internal market.
- (73) The Scheme primarily intends to safeguard the main residence of borrowers from the risk of repossession. As described in recital (7) of the Original Scheme and summarised in recital (8) in this decision, Greece has suffered from an economic crisis in recent years and the threat of repossession has emerged for a significant part of the population, in particular given the economic impact of the COVID-19 outbreak that was acknowledged in the Temporary Framework. To the extent that the Scheme aims at securing that households are protected from the risk of foreclosure in the next months, it reflects social concerns linked to the COVID-19 outbreak. In particular and as described in recital (14), the Scheme limits the eligibility to those applicants that can prove to have been affected by the COVID-19 outbreak.
- (74) The Commission, therefore, accepts that the Scheme is predominantly of a social nature. For instance, the eligibility criteria described in recitals (19) and (20) take into account the income and wealth of the debtor's household. While these criteria are slightly wider than in the Original Scheme, this is balanced with the aforementioned additional requirement of being demonstrably affected by the COVID-19 outbreak that had an additional severe impact on the financial situation of debtors when compared with the situation last year, when the Original Scheme was approved. Furthermore, the Scheme is limited to a period of only nine months.
- (75) The Commission also concludes that the Scheme fulfils the condition under Article 107(2)(a) TFEU that the aid must be "*granted without discrimination related to the origin of the products concerned*" since all Financial Institutions operating in Greece may participate in the Scheme.
- (76) In the light of all the foregoing, the Commission concludes that the indirect aid to the financial intermediaries channelling the support to individual borrowers is deemed to be compatible pursuant to Article 107(2)(a) TFEU.

6.3.3. *Compatibility of the indirect aid to the banks flowing from the support to undertakings with NPLs and Denounced Loans: assessment under Article 107(3)(c) TFEU*

- (77) Article 107(3)(c) TFEU provides that "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*" may be considered compatible with the internal market.

- (78) The Commission assesses the measure directly under Article 107(3)(c) TFEU. In particular, it has to analyse whether the measure contributes to the development of certain economic activities, is appropriate with respect to the aim it desires to achieve is necessary is proportionate, as well as it does not unduly distort competition and trading conditions and whether the positive effects of the aid outweigh its negative effects on competition and trade.
- (79) The Commission notes that the compatibility assessment in this section 6.3.3 is similar to section 6.2.3 of the Original Scheme³⁷. Following the reasoning described in recital (74), the eligibility criteria are also in the case of undertakings slightly wider than in the Original Scheme, which is balanced with the additional requirement of being affected by the COVID-19 outbreak as defined in recital (14). Furthermore, the Scheme is limited to a period of only nine months.
- (80) With regard to the contribution to the development of certain economic activities, the Scheme aims at assisting in particular small entrepreneurs with the effect of avoiding the foreclosure from the house in which they live. Without it, the activation of foreclosure proceedings would likely involve serious detrimental effects on their economic activities as well as social hardships, as these entrepreneurs would be evicted from their homes. Thus, the aid contributes to the development of economic activities by those small entrepreneurs, whilst addressing the social hardships particular to the vulnerabilities faced by them.
- (81) With regard to the appropriateness of the Scheme, the measure is suitably designed to achieve its objective, since the State will pay part of the monthly instalment due by the entrepreneurs to the Financial Institution, such that the institution does not proceed with foreclosure and seize up the residence of the entrepreneurs. Hence, the Scheme seems well-targeted and appropriate for the intended objective. The Scheme is designed in such a way as to alleviate the pending risks of foreclosure faced by small entrepreneurs, which would have a detrimental effect on their economic activities. The Commission notes in this respect that the eligibility criteria take into account the income and wealth of the debtor's household (recitals (19) and (20)) and are conditional upon the debtor being demonstrably affected by the COVID-19 outbreak (recital (14)).
- (82) With regard to the necessity of the Scheme, its criteria are designed so as to target vulnerable natural persons offering products or services in the market (and are therefore considered undertakings) only and, thus, it avoids targeting the entire stock of existing NPLs and Denounced Loans held by Greek financial institutions. In addition, the Scheme is limited to payments of part of the monthly instalment and for a limited period of time; the financial institutions will continue to bear the credit risk vis-à-vis such loans, for the amount of the loan still outstanding post-restructuring. This means that the risk of default is not eliminated by the Scheme.
- (83) With regard to the proportionality of the Scheme, the measure is limited to what is necessary to achieve the objective pursued. The aid cannot generate unnecessary advantages to the Financial Institutions and hence cannot generate undue distortion of competition. Greece has estimated a budget for the grants available under the Scheme of ca. EUR 665 million overall and the Scheme is

³⁷ See recitals (61) to (67) in the decision SA.53520.

limited to nine months. Furthermore, as described in recital (15), debtors must not benefit from any other State measures for their loans in order to be eligible for the Scheme and the Scheme includes safeguards to prevent the misuse of the Scheme as outlined in section 4.6. The loans eligible under the scheme would amount to a total of up to EUR 13.8 billion, which represents 9% of the total outstanding amount of loans in Greece (mortgage, consumer and business)³⁸ as of February 2020 or 0.22% of total assets of all Greek financial institutions as of the end of 2019. The amount of NPLs and Denounced Loans eventually subject to the subsidy can be reduced by the debtors' participation rate and the application of the eligibility criteria. Therefore, the Scheme does not unduly distort competition and trading conditions in the internal market.

- (84) Overall, the Commission concludes that the positive effects of the Scheme, especially in terms of protecting vulnerable small entrepreneurs from foreclosure from their primary residence, outweighs the negative effects of the aid on competition and trade.
- (85) In view of the above, with respect to debtors that are undertakings, the indirect aid to the Financial Institutions through the *de minimis* aid to those undertakings is compatible under Article 107(3)(c) TFEU, as it contributes to the development of economic activities in a way that addresses social hardship for small entrepreneurs and does not adversely affect trading conditions to an extent contrary to the common interest.

6.3.4. *Compatibility of the indirect aid to the banks flowing from the support to debtors with Performing Loans: assessment under Article 107(3)(b) TFEU*

- (86) Article 107(3)(b) TFEU provides that aid “*to remedy a serious disturbance in the economy of a Member State*” may be considered compatible with the internal market.
- (87) 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*”.
- (88) Furthermore, in its most recent amendment of the Temporary Framework of 13 October, the Commission noted that, according to the Summer 2020 Economic Forecast³⁹, the Union's economy is projected to contract by 8.3% in 2020, a deeper contraction than the 7.4% envisaged in spring. As the lifting of restrictive measures is proceeding more gradually than initially envisaged, the impact of the COVID-19 outbreak on economic activity may be more significant than

³⁸ This share corresponds to 11.7% of the total amount of performing loans, 8.7% of the total amount of NPLs and 3.7% of the total amount of denounced loans.

³⁹ European Commission, Economic and Financial Affairs: *Summer Forecast 2020 (Interim)* (July 2020).

anticipated. GDP for the euro area at the end of 2021 is expected to be about 2% lower than it was at the end of 2019, before the crisis, and about 4.5% below the GDP level estimated in the winter forecast⁴⁰. Due to the gradual lifting of restrictions, but also the more permanent effects of the outbreak (e.g., widespread employment destructions and corporate insolvencies), there could be a slower, incomplete recovery.

- (89) The Commission has provided guidance in the Temporary Framework as to when aid under Article 107(3)(b) TFEU can be declared compatible with the internal market in light of the current serious disturbance in the economy. However, the Temporary Framework is not directly applicable to the Scheme proposed by Greece, as the Scheme does not contain direct aid measures that would fall under the Temporary Framework. As outlined above, the direct support under the Scheme that is provided to natural persons and undertakings does not constitute (or at least is deemed not to constitute⁴¹) State aid.
- (90) With regard to the indirect aid to Financial Institutions, Section 3.4 of the Temporary Framework can nonetheless be applied by analogy, given that the considerations of section 3.1 apply *a fortiori* to the direct support granted in the present case.
- (91) Section 3.1 of the Temporary Framework includes the possibility, on the basis of a scheme with an estimated budget, to provide grants of up to EUR 800 000 to undertakings provided that they were not already in difficulty on 31 December 2019 or are not subject to collective insolvency procedure under national law at the moment of granting the aid in the case of micro and small enterprises.⁴² *A fortiori* in the present Scheme:
- (a) The overall nominal value per final recipient does not exceed EUR 5 400 (recital (22)). This is significantly below the threshold set out in point 22(a) of the Temporary Framework;
 - (b) aid is granted on the basis of a scheme with an estimated budget as indicated in recital (26), complying with point 22(b) of the Temporary Framework;
 - (c) the period for granting of the aid ceases before 30 June 2021, which complies with point 22(d) of the Temporary Framework (recital (30));
 - (d) as submitted by Greece, the Scheme targets, principally, individuals not exercising an economic activity. Those beneficiaries, which exercise an economic activity could not rank as SMEs or large companies based on

⁴⁰ European Commission, Economic and Financial Affairs: *Winter Forecast 2020* (Interim) (February 2020).

⁴¹ Insofar as *de minimis* aid to undertakings is concerned.

⁴² In addition, these must not have received rescue aid (or alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid) nor restructuring aid (or alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid).

the income, wealth and loan criteria set in the Scheme⁴³ (recital (47)). With regard to micro and small undertakings⁴⁴, the Scheme is further designed in a way to ensure that companies subject to insolvency procedures are excluded. A debtor must not have been subject to the bankruptcy law in Greece or a relevant debt settlement regulation, even if the application was unsuccessful, to be eligible under the Scheme. Any pending application for the above procedures must be discontinued before applying for the Scheme (recital (15)(b) and (c)). Lastly, Greece also submitted that, to the extent that loans correspond to performing buyers, who at the moment of applying for the Scheme have met their repayment obligations, they would not be subject to insolvency proceedings (recital (47)). While the exclusions required by the Temporary Framework are not expressly set out in the Law, the Greek authorities designed the Scheme in a way to comply with the requirements of points 22(c) and 22(c)bis of the Temporary Framework, which the Commission considers acceptable for the *a fortiori* reasoning at hand.

- (e) as the aid is used to contribute to the instalments due for the debt of eligible debtors, the Scheme complies with point (22)(e) of the Temporary Framework;
 - (f) the Greek authorities further confirm that the monitoring, reporting and cumulation rules of the applicable *de minimis* Regulations will be respected (recitals (24) and (25)).
- (92) Concerning the specific provisions applicable to undertakings in the agriculture, fishery and aquaculture sectors, the Commission notes that the aid is used to the instalments due for the debt of eligible debtors and is limited to at most EUR 5 400. Points (23) and (23)bis are therefore also complied with.
- (93) Aid under Section 3.1 of the Temporary Framework in the form of grants does not set any further conditions with regard to the use of the aid by the recipient. Therefore, it is not excluded that the final recipients may also cover instalments of their mortgages with the grants received.⁴⁵
- (94) As regards indirect aid to Financial Institutions, Section 3.4 of the Temporary Framework applies in the case of loans or guarantees provided under the Temporary Framework that are channelled through financial intermediaries. That section normally does not concern grants, except when the grants are destined for

⁴³ With regard to the household income, this shall not exceed EUR 24 000 for one person, with the possibility to increase up to EUR 57 000, including spouse and up to three dependent members. With regard to the financial assets, the threshold is set at EUR 40 000. The aggregate value of the household income and of the financial assets is significantly below the threshold of EUR 10 million of annual turnover and/or annual balance sheet, which is required for an undertaking to classify as small, within the meaning of Annex I of the General Block Exemption Regulation, the Agricultural Block Exemption Regulation or the Fisheries Block Exemption Regulation.

⁴⁴ As defined in Article 1 of Annex I in Commission Regulation N. 651/2014 of 17 June 2014.

⁴⁵ See, for example, recitals 6 and 50 of Commission Decision of 10 April 2020, Poland: *COVID-19 – Interest rate subsidy scheme* (SA.56979 (2020/N)).

payment of interest in loans granted by Financial Institutions.⁴⁶ In Section 3.4 of the Temporary Framework, the Commission accepted indirect aid to Financial Institutions when they channel the public support to non-financial undertakings, subject to safeguards. Point 31 of the Temporary Framework requires that the financial intermediaries, to the largest extent possible, pass on the advantages of the public guarantee or subsidised interest rates on loans to the final beneficiaries.

- (95) The present Scheme aims at subsidising a predefined set number of instalments of loans secured with the beneficiaries' primary residence. The Commission observes that the measure contains safeguards to ensure that financial intermediaries, to the largest possible extent pass on advantages to the final beneficiaries. In that respect, the Commission notes that the Scheme concerns loans whose main terms (such as the loan principal, the interest rate and the maturity) are already agreed and are not subject to change. Therefore, the Financial Institutions are not in a position to renegotiate such terms. The measure provides for a pre-set portion corresponding to already scheduled monthly instalment payments. The subsidy is paid by the State directly to the special (blocked and non-confiscatable) bank account of each final beneficiary. In addition, the Scheme does not cover the entire amount of the monthly instalment of the eligible loan. For Performing Loans, the Probation Period is limited to six months. Therefore, the Financial Institutions remain exposed to the credit risk, throughout the whole period. The Commission considers that under the Scheme, the full amount of the grant will benefit the disposable income and the liquidity needs of the final beneficiary. Therefore, in analogy to the Temporary Framework, any indirect aid stemming from the support under the Scheme to debtors with Performing Loans can be declared compatible under Article 107(3)(b) TFEU in analogy to Sections 2, 3.1 and 3.4 of the Temporary Framework.
- (96) Following this approach, the Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State.

7. ASSESSMENT OF THE EXISTENCE OF INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU)806/2014

- (97) It has been established that the Scheme provides indirectly aid to the Financial Institutions. To the extent that some Financial Institutions, notably the banks, fall under the scope of Directive 2014/59/EU⁴⁷, as defined in Article 1, it needs to be assessed whether such aid qualifies as "extraordinary public financial support", as defined pursuant to Article 2(28).

⁴⁶ See, for example, recitals 6 and 50 of Commission Decision of 10 April 2020, Poland: *COVID-19 – Interest rate subsidy scheme* (SA.56979 (2020/N)). Commission Decision of 26 October 2020, Croatia: *COVID-19 - Amendment to SA.56957 (2020/N) – State aid measures to support companies experiencing liquidity shortages*, recitals (8) and (34).

⁴⁷ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, OJ L 173 of 12.06.2014, p. 190.

- (98) This is necessary because the Commission cannot approve aid as compatible with the internal market if it breaches another intrinsically linked provision of Union law.
- (99) Article 2(28) of the Directive defines extraordinary public financial support as: "*State aid within the meaning of Article 107(1) TFEU, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) or of a group of which such an institution or entity forms part.*"
- (100) That definition does not encompass any type of aid, but only aid whose objective is "*to preserve or restore the viability, liquidity or solvency*" of a bank. The Scheme's objective is three-fold depending on whether, for NPLs and Denounced Loans, the final recipient is an individual or an undertaking and, thirdly whether the Scheme concerns Performing Loans. In the first case, the aid objectively pursues the social goal of Article 107(2)(a) TFEU. In the second case, the aid objectively pursues the goal of contributing to the development of economic activities by addressing the social hardships particular to the vulnerabilities faced by small entrepreneurs under Article 107(3)(c) TFEU. In the third case, the aid pursues the goal of addressing a serious disturbance of the economy under Article 107(3)(b) as assessed in analogy to the Temporary Framework. Nevertheless, in all cases, the predominantly social objective indicates that the Scheme's objective is not to preserve or restore the viability, liquidity or solvency of a bank. In particular regarding the third case, point 29 of the Temporary Framework applies *by analogy* in view of the safeguards outlined in recital (94) above, which ensure that the Scheme predominantly supports the real economy or even non-undertakings, and therefore it does not have the objective to preserve or restore the viability, liquidity or solvency of a bank. Therefore, in all three cases, the Financial Institutions benefit only indirectly through the aid to the respective categories of debtors.
- (101) In conclusion, the Scheme's objective is not to preserve or restore the viability, liquidity or solvency of a bank.
- (102) Therefore, the criteria for the aid to be considered as "extraordinary public financial support" are not fulfilled and the Scheme does not fall under the scope of Directive 2014/59/EU.
- (103) This assessment is without prejudice to the prerogative of the Commission to initiate infringement procedures against a Member State for breach of Union law, including breach of the provisions of Directive 2014/59/EU.

8. DECISION

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 Articles 107(2)(a), Articles 107(3)(b) and 107(3)(c) of the Treaty on the Functioning of the European Union

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

