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COMMUNICATION FROM THE COMMISSION AMENDING THE TEMPORARY COMMUNITY FRAMEWORK FOR STATE AID MEASURES TO SUPPORT ACCESS TO FINANCE IN THE CURRENT FINANCIAL AND ECONOMIC CRISIS

1. INTRODUCTION

The Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis applies from 17 December 2008 until 31 December 2010¹.

The Temporary framework foresees in its final provisions that where this would be helpful, the Commission may also provide further clarifications on its approach to particular issues.

The application of the Temporary framework has shown the necessity of introducing additional clarifications as regards the applicability of Article 87(3)(b) of the Treaty, the existing framework for setting the reference and discount rates and the application of the aid in the form of guarantees.

2. AMENDMENTS TO THE TEMPORARY COMMUNITY FRAMEWORK

The following amendments to the Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis will take effect from 25 February 2009:

(1) In point 4.1, the following paragraph is added:

"Therefore Member States have to show that the State aid measures notified to the Commission under this framework are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and that all the conditions are fully respected".

(2) Point 4.3.2 is amended as follows:

(a) Points (a) and (b) are replaced by the following:

"(a) for SMEs, Member States grant a reduction of up to 25% of the annual premium to be paid for new guarantees granted in accordance with the safe-harbour provisions as set out in the Annex *.

(b) for large companies, Member States also grant a reduction of up to 15% of the annual premium for new guarantees calculated on the basis of the same safe-harbour provisions set out in the Annex".

* The premiums in the Annex refines the safe-harbour provisions of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the

¹ OJ C 16, 22.1.2009, p. 1.

form of guarantees (OJ C 155, 20.6.2008) by taking account of different levels of collateralisation. They may also be used as benchmark to calculate the compatible aid element for guarantee measures falling under point 4.2 of this framework.

The calculation of the safe-harbour premiums is based on the margins provided by the Commission Communication on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6), taking account of an additional reduction of 20 basis points (see footnote 11 of the above Communication). For each rating category, however, the safe-harbour premium as set out in the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ C 155, 20.6.2008) remained the upper premium limit for each rating category. As to the definition of the different levels of collateralisation see footnote 2, page 3 of the Commission Communication on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

(b) Point (f) is replaced by the following:

"(f) The guarantee does not exceed 90% of the loan for the duration of the loan".

(c) Point (h) is replaced by the following:

"(h) The reduction of the guarantee premium is applied during a maximum period of 2 years following the granting of the guarantee. If the duration of the underlying loan exceeds 2 years, Member States may apply for an additional maximum period of 8 years the safe-harbour premiums set out in the Annex without reduction".

(3) Point 4.4.1 is replaced by the following:

"4.4.1 The Commission Communication on the revision of the method for setting the reference and discount rates* establishes a method for calculation of the reference rate, based on the one-year inter-bank offered rate (IBOR) increased by margins ranging from 60 to 1 000 base points, depending on the creditworthiness of the company and the level of collateral offered. The method for calculation of the reference and discount rates may be amended by the Commission, in order to reflect the prevailing market conditions. If Member States apply the calculation method of the reference and discount rates established in the Commission communication in force at the moment of the grant of the loan and comply with the conditions set out in that communication, the interest rate does, in principle, not contain State aid.

* OJ C 14, 19.1.2008, p. 6."

(4) Point 4.5.1 is replaced by the following:

" 4.5.1 The Commission Communication on the revision of the method for setting the reference and discount rates* establishes a method for calculation of the reference rate, based on the one-year inter-bank offered rate (IBOR) increased by margins ranging from 60 to 1 000 base points, depending on the creditworthiness of the company and the level of collateral offered. The method for calculation of the reference and discount rates may be amended by the Commission in order to reflect the prevailing market conditions. If Member States apply the calculation method of the reference and

discount rates established in the Commission communication in force at the moment of the grant of the loan and comply with the conditions set out in that communication, the interest rate does, in principle, not contain State aid.

* OJ C 14, 19.1.2008, p.6"

(5) The following Annex is added :

"ANNEX

Safe-harbours Temporary Framework in basis points*			
Rating category (Standard & Poor's)	Collateralisation		
	High	Normal	Low
AAA	40	40	40
AA+	40	40	40
AA			
AA-			
A+	40	55	55
A			
A-			
BBB+	55	80	80
BBB			
BBB-			
BB+	80	200	200
BB			
BB-	200	380	380
B+			
B	200	380	630
B-			
CCC and below	380	630	980

* For companies which do not have a credit history or a rating based on a balance sheet approach (such as certain special purpose companies or start-up companies), Member States may grant a reduction up to 15% (25% for SMEs) on the specific safe-harbour premium set at 3,8 % in the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to

State aid in the form of guarantees (OJ C 155, 20.6.2008). However, the premium can never be lower than the premium which would be applicable to the parent company or companies."