

European Commission To Phase-Out COVID-19 Temporary Framework

May 24, 2022

On May 12, 2022, the Commission announced that it will phase out the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “COVID-19 Temporary Framework”).¹ The COVID-19 Temporary Framework was first adopted on March 19, 2020,² and the main provisions will cease to be in force after June 30, 2022. The Commission decided not to extend the COVID-19 Temporary Framework due to the overall improvement of the sanitary crisis in Europe and the consequent lifting of restrictive measures.³

Two Years of COVID-19 Temporary Framework

The COVID-19 Temporary Framework has been in force for over two years. Since its adoption in March 19, 2020, it has been amended six times: on April 3, May 8 and June 29 in 2020, and January 28 and November 18 in 2021.⁴

During that period, the Commission has adopted over 1,300 decisions related to COVID-19, amounting to *c.* €3.2 trillion.⁵ The Commission has published an updated list with all of the COVID-19-related aid measures [here](#), including those authorized under the COVID-19 Temporary

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¹ Commission Press Release, Commission will phase out State aid COVID Temporary Framework, May 12, 2022, available [here](#); Framework for State aid measures to support the economy in the current COVID-19 outbreak 2020/C 91 I/01 C/2020/1863 OJ C 91I, 20.3.2020, p. 1–9, available [here](#).

² Commission Press Release, *Commission adopts Temporary Framework to enable Member States to further support the economy in the COVID-19 outbreak*, March 19, 2020, available [here](#).

³ Commission Press Release, Commission will phase out State aid COVID Temporary Framework, May 12, 2022, available [here](#).

⁴ See six amendments of the Temporary Framework [here](#). See also Cleary Gottlieb’s previous Alert Memoranda (i) [here](#), (ii) [here](#), (iii) [here](#), (iv) [here](#) and (v) [here](#).

⁵ *Ibid.*



Framework, but also under the relevant Treaty legal bases: *i.e.*, Articles 107(2)(b) TFEU (compensation of damage caused by exceptional occurrences), 107(3)(b) TFEU (aid to remedy a serious disturbance in the economy) and 107(3)(c) TFEU (rescue and restructuring aid).⁶ The most frequent type of aid measure were direct grants and subsidized interest rates, followed by loan guarantees, public loans and repayable advances. And Member States granted most of the aid to the agricultural, transport, entertainment and hospitality sectors (*c.* one fourth of all COVID-19 aid).

What Is Next? State Aid Options Available After June 30, 2022

The Commission has published a “non-paper” outlining the State aid options available after June 30, 2022.⁷

- The Commission will phase out the COVID-19 Temporary Framework gradually, allowing certain flexibility past June 30, 2022.
 - Most of the main measures will no longer be available after June 30, 2022, namely: aid grants (Section 3.1), loan guarantees (Section 3.2), subsidized interest rates (Section 3.3), loans and guarantees channeled through financial institutions (Section 3.4), short-term export credit insurance (Section 3.5), aid for COVID-19 R&D (Section 3.6), investment aid for testing and upscaling infrastructure (Section 3.7), investment aid for the production of COVID-19 relevant products (Section 3.8), tax and social security deferrals (Section 3.9), wage subsidies to avoid lay-offs (Section 3.10), recapitalization and hybrid measures (Section 3.11) and support for uncovered fixed costs (Section 3.12).
 - However, liquidity support granted under the abovementioned Sections of the COVID-19

⁶ Commission Factsheet, *List of Member State Measures approved under Articles 107(2)(b), 107(3)(b) and 107(3)(c) TFEU and under the State Aid Temporary Framework*, last updated on May 16, 2022, available [here](#).

Temporary Framework with maturities after June 30, 2022 need not be repaid immediately.

- Member States may also prolong guarantees, loans and repayable instruments under Sections 3.1, 3.3. and 3.12 of the COVID-19 Temporary Framework, on condition that (i) they do not amount to new aid; (ii) this possibility is stipulated in the initial guarantee contract before June 30, 2022; (iii) the total duration of the guarantee does not exceed eight years; and (iv) the guarantee is adequately re-priced.
- Section 3.13 of the COVID-19 Temporary Framework on investment support towards sustainable recovery, which allows investment aid of up to €10 million granted through schemes, will remain in force until December 31, 2022.
- Conversion and loan restructuring options will be available until June 30, 2023.
- Section 3.14 of the COVID-19 Temporary Framework on solvency support for SMEs and mid-caps will remain in force until December 31, 2023.



Source: European Commission

- As usual, Member States can seek approval of State aid under the existing Treaty legal bases, notably, under Article 107(2)(b) TFEU (compensation of damage caused by exceptional occurrences), Article 107(3)(b) TFEU (aid to remedy a serious disturbance in the economy) and

⁷ Commission Non-Paper, *Liquidity support and other possibilities to support undertakings under the COVID-19 Temporary Framework beyond 30 June 2022*, available [here](#).

Article 107(3)(c) TFEU (rescue and restructuring aid).⁸

- Member States may also seek approval of State aid under the new Temporary Framework for the implementation of State aid rules to support the economy following the conflict in Ukraine (the “Temporary Crisis Framework”).⁹ We have previously analyzed the main provisions of the Temporary Crisis Framework [here](#).¹⁰ In summary, the Temporary Crisis Framework allows for: (i) direct grants, tax advantages, repayable advantages, guarantees, loans or equity up to €400,000; (ii) loan guarantees; (iii) subsidized loans; and (iv) aid to cover additional costs due to exceptionally severe increases in natural gas and electricity prices. The Temporary Crisis Framework also sets out rules governing the cumulation of aid with measures granted under the COVID-19 Temporary Framework.

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As the Commission phases out the COVID-19 Temporary Framework, it is expected that the number of measures adopted under the sister Temporary Crisis Framework that followed the Ukraine conflict will quickly pick up. So far, the Commission has approved at least sixteen aid measures under the Temporary Crisis Framework. And, as it happened with the COVID-19 Temporary Framework, it is likely that the Temporary Crisis Framework will be followed by a series of amendments, including additional State aid options, depending on the duration and the effects of the current crisis.

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⁸ Treaty on the Functioning of the European Union, Article 107.

⁹ Commission Press Release of March 23, 2022, *Commission adopts Temporary Crisis Framework to support the economy in context of Russia’s invasion of Ukraine*, available [here](#); Commission Communication, *Temporary Crisis Framework for State Aid measures to*

support the economy following the aggression against Ukraine by Russia, 2022/C 131 I/01 C/2022/1890 OJ C 131I , 24.3.2022, p. 1–17, available [here](#).

¹⁰ See Cleary Gottlieb Alert Memorandum, *Temporary Framework for the Implementation of State Aid Rules to Support the Economy Following the Conflict in Ukraine*, March 31, 2022, available [here](#).