

Brussels, 16 December 2021
Case No: 87895
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Decision No 294/21/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
0032 Oslo
Norway

Subject: Renewal of the COVID-19 Guarantee scheme

1 Summary

The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified renewal of the COVID-19 Guarantee scheme (“the measure”), it considers that the measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to the measure, as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(b). ESA has based its decision on the following considerations.

2 Procedure

- (1) The Norwegian authorities notified the measure on 16 December 2021.²

3 Description of the measure

3.1 Background

3.1.1 The COVID-19 Guarantee scheme

- (2) By Decision No [028/20/COL](#) of 26 March 2020, ESA approved a scheme aimed at ensuring access to liquidity for micro, small and medium-sized enterprises (SMEs) facing a sudden shortage of liquidity due to the economic effects of the COVID-19 outbreak, by means of public guarantees on loans channelled through financial intermediaries such as credit institutions (“the scheme”).
- (3) By Decision No [031/20/COL](#) of 2 April 2020, ESA approved an amendment to the scheme (inclusion of large undertakings). By Decision No [048/20/COL](#) of 25 May 2020, ESA approved a prolongation of the scheme. By Decision No [100/20/COL](#) of 31 July 2020, ESA approved a further amendment to the scheme (aid to micro or small enterprises in difficulty). By Decision No [133/20/COL](#) of 12 November 2020, ESA approved a further prolongation and amendments to the scheme (extension of the maximum duration of guaranteed loans to six years and rules on guarantee premiums for loans with duration longer than three years). By Decision No [130/21/COL](#) of 18 June 2021, ESA approved another prolongation of the scheme until 31 October 2021.

¹ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

² Document Nos 1256797 and 1256799.

- (4) Reference is made to the above decisions for a more detailed description of the scheme.
- (5) In the abovementioned decisions, ESA applied the compatibility conditions set out in Section 3.2 of the [Temporary Framework](#) for state aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”) as amended at the time of the decisions.³ The Temporary Framework sets out temporary state aid measures that the Commission considers compatible under Article 107(3)(b) TFEU, which corresponds to Article 61(3)(b) of the EEA Agreement.

3.1.2 *The continued impact of COVID-19*

- (6) The Norwegian authorities have explained that Norway is now experiencing a substantial increase in COVID-19 cases every day, in particular due to the Delta mutation of the virus, and the rapid spread of the novel Omicron mutation, which seems to be more easily transmissible. In order to slow down the spread of COVID-19, the Norwegian authorities are reintroducing stricter preventative measures.
- (7) Both the COVID-19 outbreak and public preventative measures have had and still have a negative impact on the Norwegian economy. Preventive measures such as social distancing may impact the revenue potential for undertakings, in particular in the hospitality industry, but other industries may also be affected. As the COVID-19 measures may result in a sudden liquidity shortage in many undertakings in the coming weeks and months, the Norwegian authorities find that the scheme should be renewed until 30 June 2022.

3.2 The notified measure

- (8) The Norwegian authorities have notified a renewal of the scheme which expired on 31 October 2021. The Norwegian authorities propose to extend the scheme until 30 June 2022. The measure would consequently allow for new guaranteed loans to be granted from the date of ESA’s approval of the measure until 30 June 2022.
- (9) All other conditions of the scheme will remain the same.

3.3 National legal basis and budget

- (10) The national legal basis of the scheme consists of the Act on State guarantee scheme for loans to small and medium sized enterprises,⁴ and the Regulation for loans to small and medium sized enterprises (“the Regulation”).⁵ The notified measure will be effectuated by a regulation amending the Regulation.⁶

³ Communication from the Commission – Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak of 19 March 2020, OJ C 91, 20.3.2020, p. 1, amended five times, (i) on 3.4.2020, OJ C 112, 4.4.2020, p. 1, (ii) on 8.5.2020, OJ C 164, 13.5.2020, p. 3, (iii) on 29.6.2020, OJ C 218, 2.7.2020, p. 3, (iv) on 13.10.2020, OJ C 340, 13.10.2020, p. 1, (v) on 28.01.2021, OJ C 34, 01.02.2021, p 6. and (vi) 18.11. 2021 C(2021) 8442.

⁴ [LOV-2020-03-27-14](#) lov om statlig garantiordning for lån til små og mellomstore bedrifter.

⁵ [FOR-2020-03-27-490](#) forskrift 27. mars 2020 nr. 490 til lov om statlig garantiordning for lån til små og mellomstore bedrifter.

⁶ Forskrift om endring i forskrift 27. mars 2020 nr. 490 til lov om statlig garantiordning for lån til små og mellomstore bedrifter.

- (11) There are no changes to the budget of NOK 50 billion (approximately EUR 4.91 billion). The Norwegian authorities have explained that as of 8 December 2021, only 22.6% of the total budget has been used.

4 Presence of state aid

4.1 Introduction

- (12) Article 61(1) of the EEA Agreement reads as follows: “Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States 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 Contracting Parties, be incompatible with the functioning of this Agreement.”
- (13) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the state or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.
- (14) ESA has concluded that the COVID-19 Guarantee scheme constitutes aid within the meaning of Article 61(1) of the EEA Agreement in six previous decisions. There is nothing that indicates that this conclusion should be altered with respect to the measure. On this basis, ESA concludes that the measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Lawfulness of the aid

- (15) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”): “The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. ... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision.”
- (16) The Norwegian authorities have notified the measure and have yet to let it enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid

6.1 Introduction

- (17) In derogation from the general prohibition of state aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the Agreement.
- (18) Pursuant to its Article 61(3)(b), ESA can declare state aid compatible with the functioning of the EEA Agreement, “to remedy a serious disturbance in the economy of an EC Member State or an EFTA State”.
- (19) In the context of the COVID-19 outbreak, the Commission adopted the Temporary Framework that sets out temporary state aid measures that it considers compatible under Article 107(3)(b) TFEU, which corresponds to Article 61(3)(b) of the EEA Agreement. This type of aid is available for a limited period to remedy the

liquidity shortages faced by undertakings, to ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability.

- (20) ESA has already concluded that the scheme is compatible with the conditions set out in Section 3.2 of the Temporary Framework, in its previous six decisions described above in section 3.1.1. The proposed renewal of the scheme does not alter ESA's previous conclusions.
- (21) ESA notes that the proposed renewal of the scheme with a duration until 30 June 2022, is within the allowed time frame of the Temporary Framework section 3.2, paragraph 25(c). Furthermore, the Norwegian authorities have confirmed that all the applicable rules on reporting and monitoring under section 4 of the Temporary Framework will be adhered to.
- (22) ESA accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of an EEA EFTA State and that it meets all the relevant conditions of the Temporary Framework.

7 Conclusion

- (23) On the basis of the foregoing assessment, ESA considers that the measure constitutes state aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that aid is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(b), it has no objections to the implementation of the measure.
- (24) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published.

For the EFTA Surveillance Authority,

Yours faithfully,

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*This document has been electronically authenticated by Bente Angell-Hansen,
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