Brussels, 26 March 2020
Case No: 84979
Document No: 1123487
Decision No 028/20/COL

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

Subject: COVID-19 Guarantee scheme for SMEs

1 Summary

(1) The EFTA Surveillance Authority ("ESA") wishes to inform Norway that, having assessed the public guarantee scheme for SMEs ("the scheme"), it considers that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections[1] to the scheme, as it is compatible with the functioning of the EEA Agreement, pursuant to Article 61(3)(b) of the EEA Agreement. ESA has based its decision on the following considerations.

2 Procedure

(2) The Norwegian authorities notified the scheme on 25 March 2020.[2]

3 Description of the measure

3.1 Background

(3) As recognised in the Commission's Communication on the Temporary Framework for state aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework"),[3] the COVID-19 outbreak has caused a major shock to global and national economies. The containment measures adopted by the Norwegian government and other national governments, such as social distancing requirements, travel restrictions, quarantines, and lockdowns, have led to a sudden decline in demand for services nationally and globally. The outbreak of COVID-19 in Norway is serious for life and health. To counter the outbreak, Norway has implemented strong preventative public health measures, such as isolation and quarantine requirements, the closing of kindergartens, schools and universities, restrictions on providing certain services requiring close contact between the customer and the service provider, and a general recommendation for everyone to practice social distancing.

(4) Both the outbreak and the preventative measures will have a major impact on the economy and will significantly weigh on economic activity in the short term. There

---

[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] Documents No 1123490 and 1123491.
[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, not yet published in the OJ.

is still considerable uncertainty about the full economic impact of COVID-19. To mitigate the negative economic effects, the Norwegian authorities have introduced several measures.

(5) Many micro, small and medium-sized enterprises (SMEs) in Norway are facing a sudden shortage of liquidity due to the economic effects of the COVID-19 outbreak. While still having to pay their fixed costs, many SMEs are currently left with little or no revenues. For some SMEs, the shortage of liquidity is already acute. Many others are likely to face a severe liquidity shortage soon. The SMEs are active in most industries in Norway, but among the industries most severely affected are retail trade, tourism, manufacturing, transportation and storage.

(6) In total, it is estimated that approximately 30 000 SMEs in Norway may face a liquidity shortage as a result of the COVID-19 outbreak. The Norwegian authorities have estimated that the SMEs may face a liquidity shortage in the range of NOK 27–110 billion.

3.2 Objective

(7) The scheme aims at ensuring access to liquidity for 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.

3.3 National legal basis

(8) The legal basis for the scheme is the Act on State guarantee scheme for loans to small and medium sized enterprises ("the Act").[4] The Norwegian authorities will adopt a Regulation for loans to small and medium sized enterprises ("the Regulation"). These acts form the national legal basis of the scheme.

3.4 Granting authority and administration of the scheme

(9) Due to the fact that an exceptionally large number of SMEs may need access to liquidity under the guarantee scheme at the same time and to speed up and streamline the administrative process, the financial intermediaries granting loans are responsible for carrying out an *ex ante* control of each loan application, ensuring that the conditions of the Temporary Framework are satisfied in each individual case before a loan is granted.

(10) Loans covered by the guarantee scheme may be granted by financial intermediaries such as credit institutions, licensed to carry out financing activities in Norway, pursuant to the Financial Undertakings Act.[5] Financial undertakings established in another EEA State may carry out financing activities in Norway, either through a subsidiary or as a cross-border activity.[6]

(11) The financial intermediaries granting loans under the scheme must document the application and verification process and maintain records of all necessary information, in order to establish that the conditions in the Temporary Framework

---

[4] Act on State guarantee scheme for loans to small and medium sized enterprises, adopted by the Norwegian Parliament on 23 March 2020.
[5] LOV-2015-04-10-17 (finansforetaksloven).
[6] Section 1-2 of the Financial Undertakings Act.

were met in each case, for ten years from the time the guaranteed loan was granted.

(12) The Ministry of Finance is responsible for and oversees the guarantee scheme. The *ex post* control of the compatibility with the criteria in the Temporary Framework and processing of the guarantee payments will be carried out by the Norwegian Export Credit Guarantee Agency (GIEK), with support from the Norwegian Central Bank if need be.

(13) If a financial intermediary wishes to make use of the guarantee on the qualifying default of or non-payment by the borrower, GIEK will assess whether the criteria of the Temporary Framework are satisfied based on the documentation provided by the financial intermediary, and thus whether the guarantee covers the loss in question.[7]

3.5 Beneficiaries

(14) The scheme applies to the whole territory of Norway and is open to all sectors of the economy. The scheme is only available to undertakings satisfying the definition of an SME as set out in Annex I to 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 (the General Block Exemption Regulation, "GBER").[8]

(15) Eligible beneficiaries under the scheme are SMEs carrying out economic activities in Norway that are facing a sudden shortage of liquidity due to the COVID-19 outbreak.[9] The scheme is thus available to SMEs regardless of their place of establishment. Because the scheme is related to the consequences of the COVID-19 outbreak in Norway, the guarantee scheme is only available to enterprises that have a right or obligation to register in the Norwegian Business Enterprise Register.[10]

(16) Beneficiaries under the scheme must be facing a sudden liquidity shortage to be eligible for aid. This is considered to be fulfilled if the undertaking in question would not otherwise have had access to financing of its operating and investment costs, in order to safeguard continued operations within the loan maturity period. Additionally, the main reason for the sudden liquidity shortage must be a direct or indirect consequence of the COVID-19 outbreak.

(17) In order to receive a loan covered by the guarantee scheme, the financial undertaking providing the loan must have concluded that the beneficiary would be profitable under normal market conditions.[11] This condition is intended to ensure that the financial undertakings strive to undertake ordinary credit assessments of each loan application.

---

[7] Section 8 of the Act.
[8] Referred to at point 1j of Annex XV to the EEA Agreement.
[9] Section 3, paragraph 1, of the Act.
[10] In Norwegian: Foretaksregisteret.
[11] Section 3, paragraph 2, of the Act.

(18) The financial undertakings must ensure that no loans will be granted to undertakings that were in difficulties on 31 December 2019, within the meaning of Article 2(18) GBER.[12]

3.6 Aid instrument, intensity, eligible costs, overlap with other schemes

(19) The aid under the scheme will take the form of publicly guaranteed loans. The loans will be granted to SMEs by financial intermediaries, such as credit institutions that are licensed to carry out financing activities in Norway.[13]

(20) The beneficiaries will pay a premium for the guarantee of 25 basis points for a 1-year maturity loan and 50 basis points for a 2- or 3-year maturity loan. The guarantees are limited to a maximum of 3 years.[14]

(21) The guarantee premium will be collected by the financial intermediary and fully transferred to the administrator of the scheme (GIEK/Norges Bank). The financial intermediary must specify the guarantee premium in each loan agreement, which must be reported to the administrator.[15]

(22) The scheme limits the maximum loan amount available to each undertaking to NOK 50 million.[10] The loan amount will be calculated in the following way:

(i) The loan amount may be the double of the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertakings site but formally in the payroll of subcontractors) for 2019. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation, or it may amount to 25% of total turnover of the beneficiary in 2019.[16]

(ii) With appropriate justification and based on a self-certification by the beneficiary of its liquidity needs, the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months.[17]

(23) The guarantee will cover 90% of each loan.[18] Losses are sustained proportionally and under the same conditions by the financial intermediary and the state. Furthermore, the guaranteed amount will decrease proportionally as the size of the loan decreases over time.[19]

(24) The scheme only applies to new loans granted after the scheme has entered into force.[20] Furthermore, the financial undertakings must ensure that guaranteed loans are not used to repay existing loans before maturity and it is further prohibited for financial undertakings to otherwise allow new loans under the

[12] Section 3, paragraph 2, of the Act.
[13] Under the Norwegian Financial Undertakings Act (section 1-2), financial undertakings established in another EEA State may carry out financing activities in Norway, either through a subsidiary or as a cross-border activity.
[14] Section 5, paragraph 1, point (d), of the Act.
[15] Section 7 of the Act.
[16] Section 5, paragraph 1, of the Act.
[17] Section 5, paragraph 2, of the Act.
[18] Section 4, paragraph 1, of the Act.
[19] Section 4, paragraph 1, of the Act.
[20] Section 2 of the Act.

guarantee scheme to constitute a transfer of the undertaking's existing credit risk to the state. Financial intermediaries may allow the loan to be interest-only for up to 12 months.

(25) Financial intermediaries providing loans under the scheme will have to pay a guarantee premium of a fixed percentage of the guaranteed loan amount to the administrator of the scheme.

(26) The Norwegian authorities confirm that aid granted under section 3.2 of the Temporary Framework cannot be cumulated with other aid granted for the same underlying loan principal under section 3.3 of the Temporary Framework.

3.7 Basic elements of the scheme

(27) The financial intermediary must make an assessment on whether loan agreements satisfy the criteria set out in the scheme and produce documentation to that effect. Such documentation shall be reported to the administrator of the scheme.[21]

(28) Financial intermediaries providing loans under the scheme must pay a guarantee fee to the administrator of the scheme.

(29) In order to reduce the risk of indirect aid being granted to the financial intermediaries when providing loans to SMEs under the scheme, the Norwegian authorities require[22] that financial intermediaries granting loans must document that the advantage has been passed on to the SME to the largest extent possible. The Regulation will require the financial intermediary to, for each loan, quantify the value of the public guarantee in the form of lowered capital costs and other relevant factors. The financial intermediary must also, for each loan, quantify the value of reduced interest rates, lowered collateral requirements or other relevant modifications to the loan agreement, compared with what the terms would have been without the public guarantee.

(30) If these calculations show that the value of the public guarantee for the financial intermediary (less the guarantee fee) exceeds the value of the modifications to the loan agreement for the borrower, the financial intermediary must pay twice the difference in an extra guarantee fee. Half of the extra fee shall be paid to the borrower to ensure that the advantage of the public guarantee is fully transferred to the beneficiary. The other half of the extra fee shall be paid to the administrator of the scheme.

(31) The additional fee to be paid to the administrator is intended to financially motivate the undertaking to pass the guarantee advantages on to the loan agreement and thus the final beneficiary via modifications.

(32) In order to make sure that any advantages of the guarantee are passed on to the SME, financial undertakings must, to the largest degree possible, grant guaranteed loans under the same terms that such a loan would be subject to under normal market conditions.[23]

---

[21] Section 7 of the Act.
[22] Section 5, paragraph 3, of the Act and to be further specified in the Regulation.
[23] Section 5, paragraph 1, point (c), of the Act.

3.8 Budget and duration

(33) The budget of the scheme is estimated at NOK 10 billion, as a loss provision of NOK 10 billion has been made in the Government's revised fiscal budget for 2020. The guaranteed amount will not exceed NOK 50 billion in total.[24]

(34) Guarantees can be granted from the entry into force of the scheme until 1 June 2020.[25] The Ministry of Finance may extend the period for the granting of guarantees.[26] The Norwegian authorities have confirmed that, in accordance with paragraph 25(c) of the Temporary Framework, the time period for when guarantees may be granted will not be extended beyond 31 December 2020.

4 Presence of state aid

(35) 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."

(36) The qualification of a measure as aid within the meaning of this provision therefore 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.

(37) The guarantee scheme is financed through the Norwegian State Budget and is therefore provided through state resources within the meaning of Article 61(1) of the EEA Agreement. GIEK is a public agency tasked with issuing guarantees on behalf of the Norwegian State and reports to the Ministry of Trade, Industry and Fisheries. GIEK has its own board and is normally run as a financial enterprise that issues guarantees on the same conditions as banks.[27] For this particular scheme, GIEK is nevertheless merely a vehicle to implement the policy objectives of the State within strictly defined conditions for providing the guarantees in question. The scheme is therefore imputable to the State.

(38) The guarantees will give an advantage to the undertakings that they would not have received under normal market conditions since, without the intervention by the State, the beneficiaries would obtain guarantees at a higher cost, if at all.

(39) The scheme is selective since it is only available to certain undertakings. Only SMEs which are facing a sudden liquidity need due to the COVID-19 outbreak are eligible for aid under the scheme. Further, the scheme applies only to undertakings with an economic activity in Norway.

(40) The beneficiaries receive an advantage that will improve their competitive position compared to that of other undertakings with which they compete. The

[24] Section 4, paragraph 2, of the Act.
[25] Section 2, paragraph 1, of the Act.
[26] Section 2, paragraph 2, of the Act.
[27] GIEK homepage: https://www.giek.no/overview/.

undertakings who will benefit from the scheme are engaged in intra-EEA trade. The scheme is therefore liable to distort competition and affect EEA trade.

(41) In the light of the above assessment, the Authority concludes that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

(42) 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."

(43) The Norwegian authorities have notified the scheme, which will only enter into force subject to approval by ESA. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid scheme

6.1 Introduction

(44) Pursuant to Article 61(3)(b) of the EEA Agreement, 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".

(45) The disturbance must affect the whole or an important part of the economy of the State concerned, and not merely that of one of its regions or part of its territory. This is in line with the requirement to interpret exceptions, such as Article 61(3)(b) of the EEA Agreement, strictly.

(46) In the context of the current 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. The Commission confirms that the current situation, specifically the effect of the containment measures adopted by national states on their economies, justify that aid can be granted on the basis of this provision. This type of aid is available for a limited period to remedy the liquidity shortage faced by undertakings to ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability.

(47) In order to ensure uniform application of the state aid rules throughout the European Economic Area, in line with the objective of homogeneity established in Article 1 of the EEA Agreement, ESA applies the compatibility conditions set out in the Temporary Framework to state aid granted by the EEA EFTA States under Article 61(3)(b) in the context of the COVID-19 outbreak.

6.2 Aid in the form of guarantees on loans under the Temporary Framework

(48) During the current circumstances, public guarantees on loans for a limited period and loan amount can be an appropriate, necessary and targeted solution in order to ensure access to liquidity to undertakings facing sudden shortage. Compatibility conditions for this type of measures are set out in section 3.2 of the Temporary Framework.

(49) The guarantee premiums under the scheme comply with paragraph 25(a) of the Temporary Framework. SMEs will pay a guarantee premium of 25 basis points for a 1-year maturity loan, and 50 basis point for a 2- or 3-year maturity loan.

(50) In line with paragraph 25(c) of the Temporary Framework, guarantees may not be granted after 30 December 2020. The guarantee scheme only allows for guarantees to be granted until 1 June 2020.

(51) The maximum amount of the loan principal is determined in accordance with the methodology set out in paragraph 25(d) of the Temporary Framework. The guarantee scheme limits the maximum loan amount available to each undertaking to NOK 50 million.

(52) The duration of the guarantees under the scheme is limited to 3 years in line with paragraph 25(f) of the Temporary Framework. The guarantees under the scheme cover 90% of the loan. Losses are sustained proportionally and under the same conditions by the credit institution and the State. Furthermore, the guaranteed amount will decrease proportionally as the size of the loan decreases over time.

(53) The guarantees under the scheme relate to both investment and working capital loans, as is permitted in paragraph 25(g) of the Temporary Framework.

(54) In line with paragraph 25(h) of the Temporary Framework, no loans will be granted to undertakings which, on 31 December 2019, were in difficulty within the meaning of Article 2(18) of the GBER.

(55) ESA accordingly considers that the scheme is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of an EEA EFTA State and that it meets all the conditions of the Temporary Framework.

(56) ESA notes that the Norwegian authorities will, in the Regulation, introduce safeguards in relation to the possible indirect aid in favour of the financial intermediaries. Such safeguards will ensure that the financial intermediaries, to the largest extent possible, pass on the advantages of the scheme to the final beneficiaries.

(57) Furthermore, the Norwegian authorities have confirmed that aid granted under section 3.2 of the Temporary Framework cannot be cumulated with other aid granted for the same underlying loan principal under section 3.3 of the Temporary Framework.

6.3 Reporting and monitoring

(58) The Norwegian authorities confirm that the reporting obligations set out in Chapter 4 of the Temporary Framework will be complied with.[28]

(59) For monitoring, detailed records regarding the aid granted under the guarantee scheme will be maintained for ten years.

(60) The Norwegian authorities commit to complying with the state aid transparency requirements for all aid granted under the scheme.

---

(28) Section 7 of the Act.

(61) The Norwegian authorities commit to submitting annual reports. They will also provide ESA with a list of measures put in place on the basis of schemes approved under the Temporary Framework by 31 December 2020.

(62) The Norwegian authorities commit to keeping detailed records regarding the granting of aid provided for by the Temporary Framework. Such records, which must contain all information necessary to establish that the necessary conditions have been fulfilled, must be maintained for 10 years upon granting of the aid, and be provided to ESA upon request.

(63) ESA is thus satisfied that the requirements in the Temporary Framework, section 4, are complied with.

6.4 Compliance with intrinsically linked provisions of Directive 2014/59/EU

(64) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution ("the BRRD"),[29] ESA notes that the scheme does not appear to violate intrinsically linked provisions of BRRD.

(65) The guarantees granted under the public guarantee scheme will be channelled through credit institutions and other financial institutions. However, Norwegian authorities have committed themselves to include safeguards that will ensure that the financial intermediaries, to the largest extent possible, pass on the advantages of the scheme to the final beneficiaries. There is therefore only minimal risk that the public guarantee constitutes an indirect advantage to banks and/or credit institutions issuing loans guaranteed under the scheme. Consequently, the scheme does not appear to violate any intrinsically linked provisions of BRRD.

7 Conclusion

(66) ESA considers that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement. Since no doubts are raised that this aid is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(b), ESA has no objections to the implementation of the scheme.

(67) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other information that should not be published.

[29] OJ L 173, 12.6.2014, p. 190 and EEA Supplement No 98, 12.12.2019, p. 38.

For the EFTA Surveillance Authority,

Yours faithfully,

Bente Angell-Hansen President Responsible College Member	Frank J. Büchel College Member	Högni Kristjánsson College Member

Carsten Zatschler
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Bente Angell-Hansen, Carsten Zatschler.