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Decision No 031/20/COL

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

**Subject: Amendment to COVID-19 Guarantee scheme for SMEs
(inclusion of large undertakings)**

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified amendments to the COVID-19 Guarantee scheme for SMEs (“the measure”), it considers that it 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 Article 61(3)(b) of the EEA Agreement. The ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified the measure by letter of 2 April 2020.²

3 Description of the measure

3.1 The COVID-19 Guarantee scheme

- (3) By [Decision 28/20/COL](#),³ (“the Decision approving the initial scheme”) ESA approved a scheme, which 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.
- (4) The conditions of the COVID-19 Guarantee scheme for SMEs (“the Guarantee scheme”) are described in the Decision approving the initial scheme.

3.2 The notified amendments

- (5) The Guarantee scheme applies to SMEs only. Many undertakings in Norway are too large to fall within the definition of SMEs as defined in Annex I of the [GBER](#),⁴

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 1125344 and 1125345.

³ ESA's Decision 028/20/COL of 26.3.2020 on COVID-19 Guarantee scheme for SMEs, not yet published.

⁴ The General Block Exemption Regulation. 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, referred to at point 1j of Annex XV to the EEA Agreement, as amended by Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating schemes for outermost regions and amending Regulation (EU) 702/2014 as regards the calculation of eligible costs.

but are nevertheless facing a sudden shortage of liquidity due to the economic effects of the COVID-19 outbreak. Such large undertakings are active in most industries in Norway, but among the industries most severely affected are retail trade, automobile repairs, manufacturing, business services, transportation and storage.

- (6) Some of these large undertakings will have access to liquidity and capital through the reinstated Government Bond Fund. This Fund was established during the 2008 financial crisis. In its reinstated form, it will offer credit bond purchases of up to NOK 50 billion, directed at larger companies across all industries. The Government Bond Fund will be managed by *Folketrygdfondet*, a State-owned asset manager responsible for the management of the Government Pension Fund Norway.
- (7) However, it is estimated that approximately 740 large enterprises do not normally raise capital in the bond market and may therefore need access to liquidity through other sources, for instance from banks.
- (8) Assuming a six-month duration of the economic shock, the use of liquidity buffers, and excluding non-profitable enterprises, it is estimated that approximately 350 large undertakings in Norway may face a liquidity shortage as a result of the COVID-19 outbreak, but with little or no opportunity to raise capital in the bond market. It is further estimated that these large undertakings combined may have a liquidity shortage totalling approximately NOK 25 billion.
- (9) In the light of the above, the Norwegian authorities have notified their intention to amend the Guarantee scheme to also include state aid in the form of guarantees on new loans to large undertakings that need access to liquidity.
- (10) All other conditions of the Guarantee scheme will remain the same, including the budget of NOK 50 billion.

3.3 Objective

- (11) The proposed alteration to the Guarantee scheme aims at ensuring access to liquidity for large undertakings 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.

3.4 National legal basis

- (12) The legal basis for the measure is an amending Regulation,⁵ which includes specific provisions and adjustments for large undertakings.

3.5 Beneficiaries

- (13) The beneficiaries of the measure will be large undertakings carrying out economic activities in Norway that are facing a sudden shortage of liquidity due to the COVID-19 outbreak. Large undertakings should be understood as all undertakings that are not SMEs, according to the definition in Annex I to the GBER.

⁵ Regulation on amendments to Regulation 27 March 2020 No 490 to the Act on a Government guarantee scheme for SMEs.

- (14) No guarantees will be granted under the scheme to any undertaking that, on 31 December 2019, was in difficulty within the meaning of Article 2(18) GBER.

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

- (15) Beneficiaries that are large undertakings will pay a premium for the guarantee of 50 basis points for a 1-year maturity loan, and 100 basis points for a 2- or 3-year maturity loan.
- (16) If a loan agreement for a 1-year maturity loan to a large undertaking includes an option for the borrower to request an extension of the loan within the 3-year limit, the credit risk margin of 100 basis points will be applied from the day the loan is initially granted.
- (17) As described in the Decision approving the initial scheme, the loan amount under the Guarantee scheme 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.
 - (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.
- (18) The calculation methods for the loan amount under the Guarantee scheme will remain the same for large undertakings. However, if the loan amount is calculated based on self-certification by the beneficiary of its liquidity needs and with appropriate justification, the amount of the loan may cover the liquidity needs from for 12 months from the moment the aid is granted.
- (19) The Guarantee scheme limits the maximum loan amount available to each SME to NOK 50 million. According to the Norwegian authorities, some large undertakings may need larger loans. To ensure that the objective of the measure can be fulfilled, the measure sets a higher limit, NOK 150 million, for the maximum loan amount available to each large undertaking.

4 Presence of state aid

- (20) 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.”

- (21) 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.

- (22) ESA has concluded that the Guarantee scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.⁶ There is nothing in the current notified measure which alters this conclusion. In the light of that assessment, ESA concludes that the notified measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

- (23) 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."
- (24) The Norwegian authorities have notified the measure, 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 measure

6.1 Introduction

- (25) 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".
- (26) 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.
- (27) 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.
- (28) 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 The Decision approving the initial scheme, paragraphs 35 to 41.

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

- (29) ESA concluded in [Decision 028/20/COL](#) that the current Guarantee scheme is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(b). The notified amendments do not alter those conclusions.
- (30) The amendments of extending the Guarantee scheme to include large undertakings as notified by the Norwegian authorities, and described in section 3.7 of this decision, are in line with the relevant conditions set out in section 3.2 of the Temporary Framework applying to large undertakings.
- (31) The guarantee premiums under the Guarantee scheme for large undertakings comply with paragraph 25(a) of the Temporary Framework. Large undertakings will pay a guarantee premium of 50 basis points for a 1-year maturity loan and 100 basis points for a 2- or 3-year maturity loan.
- (32) The maximum amount of loan principal does not exceed the thresholds set out in paragraph 25(d) of the Temporary Framework for large undertakings.
- (33) Finally, the Commission has announced its intention to adopt an amended Temporary Framework and the Norwegian authorities confirm that they will make sure that the guarantee scheme complies with any additional requirements set out in the amended Temporary Framework, once adopted.
- (34) 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

- (35) ESA considers that the measure constitutes state aid with 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 measure.
- (36) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other 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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