

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

Subject: COVID-19 NOR – amendments to the Grant scheme for undertakings suffering a substantial loss of turnover

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified amendments to the COVID-19 Grant scheme for undertakings suffering a substantial loss of turnover (“the measures”), it considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections,¹ as the measures are compatible with the functioning of the EEA Agreement, pursuant to its Article 61(2)(b).

2 Procedure

- (2) The Norwegian authorities notified the measures on 10 March 2021.²

3 Description of the measures

3.1 Background – the existing COVID-19 Grant scheme for undertakings suffering a substantial loss of turnover

- (3) By Decision No [039/20/COL](#) of 17 April 2020, ESA approved the COVID-19 Grant scheme for undertakings suffering a substantial loss of turnover (“the scheme”). The scheme covered losses suffered during the period from 1 March 2020 to 31 May 2020 included.
- (4) By Decision No [065/20/COL](#) of 26 June 2020, ESA approved amendments to, and a prolongation of, the scheme. The approved amendments comprised: (i) reductions of the adjustment factors used in one of the formulas under the scheme; (ii) removing the fixed deduction to unavoidable fixed costs in the same formula; and (iii) reductions of the maximum compensation amount per month. The prolongation entailed extending the scheme to cover losses suffered during the period from 1 June 2020 to 31 August 2020 included.
- (5) By Decision No [164/20/COL](#), ESA approved further amendments to, and another prolongation of, the scheme.³ The amendments are set out in section 3.4 of the decision. The prolongation entailed that the scheme will cover losses suffered from 1 September 2020 until 28 February 2021 included.

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 1186662 and 1186664. The Norwegian authorities provided clarifications by e-mail of 10 March 2021 (Document No 1186661).

³ Due to a clerical error, Decision 164/20/COL refers to this decision as concerning the third amendment of the scheme. Decision 164/20/COL was, however, the third decision concerning the scheme, and thus related to the second amendment.

- (6) The general conditions of the scheme are thus described in Decisions No 039/20/COL, 065/20/COL and 164/20/COL. The Norwegian authorities have confirmed that, aside from the amendments described below, the scheme remains unchanged.

3.2 The notified amendments

3.2.1 Increased adjustment factor for 1 January to 28 February 2021

- (7) This amendment entails increasing the adjustment factor applied in the formula used for determining the aid intensity for the period from 1 January 2021 to 28 February 2021.⁴ As set forth in Decision No 164/20/COL, paragraph 22, the adjustment factor was set to 0.80 for this period.
- (8) Under the scheme as amended, the adjustment factor for the period 1 January 2021 to 28 February 2021 will be increased to 0.85. The adjustment factor, and thereby the maximum aid intensity, will thus be aligned with that applicable for the period from 1 November 2020 until 31 December 2020. The background for increasing the adjustment factor is that, according to the Norwegian authorities, more stringent containment measures than expected had to remain in force throughout the period concerned. In view of the Norwegian authorities, the ongoing severe effects of the pandemic have resulted in a need to increase the aid intensity.

3.2.2 Increased budget

- (9) As stipulated in Decision No 164/20/COL, paragraph 40, the estimated maximum budgetary implication of the period from 1 September 2020 to 28 February 2021 is NOK 5 billion. This comes in addition to an estimated maximum budgetary implication of NOK 30 billion for the period from 1 March to 31 August 2020.
- (10) The Norwegian authorities estimate that the above amendment of the adjustment factor applied for January and February 2021, will result in an increase of the estimated budgetary implication of NOK 125 million.

3.2.3 Extensions of the deadlines to apply for aid

- (11) As set forth in paragraph 11 of Decision No 164/20/COL, the administration of the scheme distinguishes between three application periods. The first period comprises loss of turnover from 1 September 2020 to 31 October 2020. The second period covers loss of turnover from 1 November 2020 to 31 December 2020. The third period concerns loss of turnover from 1 January 2021 to 28 February 2021.
- (12) Under the scheme as amended, all three application periods remain the same as under the existing scheme. However, the application rounds are adjusted. Under the scheme as amended, the deadlines to apply for aid are extended.
- (13) The first deadline is extended from 14 March 2021 to 15 June 2021. This deadline refers to two application rounds, concerning the first and second application period.

⁴ The formula is set forth in paragraph 33 of Decision No 039/20/COL. For more information about the compensation mechanism, see section 3.9 of Decision No 039/20/COL, section 3.2 of Decision No 065/20/COL, and section 3.4.3 of Decision No 164/20/COL.

- (14) The second deadline is extended from 15 May 2021 to 15 June 2021. This deadline refers to one application round, concerning the third application period.
- (15) The background for the adjustments is the need to ensure the availability of auditors and accredited accountants. Moreover, the Norwegian authorities regard it as preferable to have the deadlines end on the same date.

3.3 National legal basis

- (16) The national legal basis for the scheme as amended will be the Act on a temporary grant scheme for undertakings suffering a substantial loss of turnover after August 2020.⁵

4 Presence of state aid

4.1 Introduction

- (17) Article 61(1) of the EEA Agreement reads as follows: “[...] 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.”
- (18) 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.
- (19) ESA has concluded that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement. There is nothing in the notification to indicate that this conclusion should be altered with respect to the measures. On this basis, ESA concludes that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Lawfulness of the aid

- (20) 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.”
- (21) The Norwegian authorities have notified the measures and not let them enter into force yet. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the measures

- (22) ESA shall declare state aid compatible with the functioning of the EEA Agreement under its Article 61(2)(b) provided that certain compatibility conditions are fulfilled.

⁵ [LOV-2020-12-18-156](#), lov om midlertidig tilskuddsordning for foretak med stort omsetningsfall etter august 2020.

That provision reads: “The following shall be compatible with the functioning of this Agreement: aid to make good the damage caused by natural disasters or exceptional occurrences”. ESA has no discretion in assessing the compatibility of aid that falls within this category and meets the terms of Article 61(2)(b) of the EEA Agreement.

- (23) ESA concluded in Decisions No 039/20/COL, 065/20/COL and 164/20/COL that the scheme is compatible with the functioning of the EEA Agreement pursuant to its Article 61(2)(b). The scheme as approved in Decision No 164/20/COL covers losses suffered from 1 September 2020 until 28 February 2021 included.
- (24) As has been set out in section 3.2 above, the proposed amendments entail that the adjustment factor for the period 1 January 2021 to 28 February 2021 will be increased from 0.8 to 0.85. In turn, this is estimated to result in an increase of the estimated budgetary implication of NOK 125 million. Additionally, the Norwegian authorities will extend the deadlines to apply for aid under the scheme.
- (25) The proposed amendments have no bearing on the compatibility assessment in Decision No 164/20/COL.
- (26) First, while the slight increase in the adjustment factor will allow for a higher aid intensity, the remaining features of the scheme that safeguard against overcompensation remain unchanged. In particular, the formula in paragraph 40 of Decision No 039/20/COL, regulating the maximum aid intensity for a given beneficiary, continues to apply under the scheme as amended.
- (27) Second, the increase of the estimated budgetary implication is a mere consequence of the increase in the adjustment factor. The increase is limited and does not affect the compatibility assessment under Article 61(2)(b) of the EEA Agreement.
- (28) Third, the extensions of the deadlines to apply for aid do not affect what losses are coverable under the scheme. The scheme remains limited to net losses suffered until 28 February 2021.

7 Conclusion

- (29) On the basis of the foregoing assessment, ESA considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that the aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(2)(b), it has no objections to the implementation of the measures.
- (30) The Norwegian authorities have confirmed that the notification does not contain confidential information.

(31) For the EFTA Surveillance Authority,

Yours faithfully,

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President
Responsible College Member

Frank J. Büchel
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*This document has been electronically authenticated by Bente Angell-Hansen,
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