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Ministry of Finance and Economic Affairs
Arnarhvoli
101 Reykjavík
Iceland

Subject: COVID-19 Travel guarantee fund for package travel traders

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Iceland that, having assessed the travel guarantee fund for package travel traders (“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 its Article 61(3)(b). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Icelandic authorities notified the measure on 1 July 2020.²

3 Description of the measure

3.1 Background

- (3) As recognised in the European 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 Icelandic authorities and other national authorities, such as social distancing requirements, travel restrictions, quarantines and lockdowns, have led to a sudden decline in demand for services nationally and globally.
- (4) Measures taken globally, as well as domestically, have had an unprecedented effect on business activity in Iceland. As a small open economy, Iceland is susceptible to interruptions in global supply chains. The tourism sector has increased in significance over the past decade and the first impact assessments assumed that it would be the sector most affected by the outbreak.⁴ It has since been established that the tourism sector in Iceland will be hit very hard by the

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 1141738, 1141740, 1141742 and 1141744.

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 thrice, (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, and (iii) 29.6.2020, not yet published in the OJ.

⁴ In the commentary to the bill of law that introduced [partial unemployment benefits](#), presented to the Parliament on 13 March 2020, the tourism sector is mentioned specifically. The commentary provided that about 25 thousand jobs were directly related to tourism and that foreign tourists represent about 70% of value creation in tourism.

economic consequences of the global pandemic and international travel will not resume as quickly as was initially hoped.

- (5) The sharp decline and absence of international arrivals has resulted in a wave of cancellations at accommodation establishments (including home sharing such as Airbnb), travel agencies and tour operators. Travel bookings of all kinds, both inbound and outbound, have mostly been cancelled.

3.2 Objective

- (6) The objective of the measure is to facilitate travellers' legal rights to reimbursement for terminated package travel contracts, due to unavoidable and extraordinary circumstances and to react to the temporary and severe liquidity shortage of traders and organisers of package travel, which result from mass terminations of package travel contracts that have resulted from the spread of COVID-19.

3.3 National legal basis

- (7) The legal basis for the measure is the Act No 95/2018 on Package Travel and Linked Travel Arrangement (Act on Package Travel).⁵ On 30 June 2020, Parliament passed amendments to the aforementioned Act to establish the Travel Guarantee Fund (*Ferðaábyrgðasjóð*).⁶ On 29 June 2020, Parliament passed a supplementary budget Act, which provides funding for the measure.⁷
- (8) The terms and conditions for the State subsidised individual loan agreements will be set out in a regulation issued by the Ministry of Industries and Innovation.

3.4 Granting authority and administration of the measure

- (9) The Fund will be administered by the Icelandic Tourist Board (*Ferðamálastofa*), an independent authority under the Ministry of Industries and Innovation. The Tourist Board's activities are regulated through Act No 96/2018 on the Icelandic Tourist Board⁸ and the Act on Package Travel.

3.5 Beneficiaries

- (10) The measure comes in the form of a fund, called the Travel Guarantee Fund ("the Fund"), which will provide subsidised loans to package travel organisers and retailers ("traders of package travel") to cover liquidity needs stemming from reimbursement claims for terminated package travel contracts, due to the unavoidable and extraordinary circumstances following the outbreak of the COVID-19 pandemic.
- (11) The beneficiaries of the measure will be traders of package travel that have a legal obligation to reimburse consumers in case of termination of a package travel agreement, due to unavoidable and extraordinary circumstances. All beneficiaries, i.e. traders of package travel, are licensed tour operators in accordance with the Act on Package Travel.
- (12) Furthermore, to be able to benefit from the measure, undertakings must not have been in difficulty on 31 December 2019 (within the meaning of Article 2(18) of the

⁵ Available online at <https://www.althingi.is/lagas/nuna/2018095.html>.

⁶ Available online at: <https://www.althingi.is/altext/150/s/1974.html>.

⁷ Available online at: <https://www.althingi.is/altext/150/s/1963.html>.

⁸ Available online at: <https://www.althingi.is/lagas/149c/2018096.html>.

GBER⁹), but they may have entered into such difficulty thereafter as a result of the COVID-19 outbreak.¹⁰ However, in accordance with the 3rd Amendment to the Temporary Framework, aid can be granted to micro or small enterprises (within the meaning of Annex I of the GBER) that were already in difficulty on 31 December 2019, provided that they are not subject to collective insolvency procedures under national law and that they have not received rescue aid or restructuring aid.

3.6 Budget and duration

- (13) The budget of the measure is limited to ISK 4.5 billion.
- (14) The measure will enter into force upon approval by ESA and will end on 31 December 2020.
- (15) The deadline for payment claims by consumers and undertakings alike is 1 September 2020. Processing of all claims shall be finalised before 31 December 2020.

3.7 Aid instrument, aid intensity, eligible costs and overlap with other schemes

- (16) The Fund will provide subsidised loans to package travel traders to reimburse package travel contracts that should have been performed between 12 March 2020 and 31 July 2020, but which were terminated by either the consumer or the organiser or trader of package travel, due to unavoidable and extraordinary circumstances. The loans will be repaid to the Fund and consequently to the Icelandic State Treasury over a duration of maximum six years.
- (17) The Fund will receive guarantees in the form of a claim in the insolvency protection of the beneficiary and a priority claim in case of insolvency procedure of the beneficiary.
- (18) The market for package travel in Iceland fluctuates with the seasons. This is especially true for the inbound market (travels to Iceland). Because of this, many organisers are currently facing reimbursement claims that far exceed 25% of the turnover for 2019. Therefore, the maximum loan amount per beneficiary will be limited to the actual liquidity needs. Each recipient will self-certify that the amount that is applied for is the actual liquidity need of that organiser or trader of package travel.
- (19) The loan principle will bear a yearly interest rate, which will be based on the base rate, REIBOR 2.65% with added 0.5% credit risk margin for SMEs and 1% credit

⁹ 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 (OJ L 187, 26.6.2014, p. 1), 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 (OJ L 156, 20.6.2017, p. 1), see Joint committee Decision No 185/2017.

¹⁰ Undertakings that were in difficulty on 31 December 2019 can be entitled to de minimis aid if they fulfil other conditions of the scheme.

risk margin for large enterprises. The interest rates, as well as the credit risk margin, will be flat for the entire duration of the loan.

Table 1: Credit risk margins on loans under the measure

Type	For 1 st year	For 2 nd -3 rd year	For 4 th -6 th year
SMEs	50	50	50
LE	100	100	100

- (20) The loans are low risk, due to the right to the claim that the Fund acquires, based on the insolvency protection under Chapter VII of the Act on Package Travel.

3.8 Cumulation

- (21) The Icelandic authorities confirm that aid granted under this scheme may be cumulated with *de minimis* aid, provided that conditions of the relevant *de minimis* Regulation is respected. It may also be cumulated with aid granted under the GBER, provided that the conditions of the relevant GBER provisions are respected.
- (22) To the extent that aid under different sections of the Temporary Framework is granted to the same undertakings, the relevant provisions of the Temporary Framework (as amended) shall be respected.

4 Presence of state aid

- (23) 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.”
- (24) 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.
- (25) The measure is financed through the State budget. The measure is operated by the Icelandic Tourist Board. Therefore, the measure is granted by the State and/or through State resources and is imputable to the State, as the Tourist Board is a regulated public authority under the Ministry of Industry and Innovation.
- (26) The measure provides certain undertakings an advantage in the form of subsidised interest rates on loans. Therefore, the measure confers on the beneficiaries an economic advantage, which the recipients could not have obtained under normal market conditions.
- (27) The measure is selective as it is only available to certain undertakings, i.e. those that operate within the package travel sector.
- (28) The sectors in which the beneficiaries operate in are subject to intra-EEA trade and the measure strengthens their position compared with competing

undertakings. The measure is therefore liable to distort competition and to affect trade between Contracting Parties to the EEA Agreement.

- (29) In the light of the above assessment, ESA concludes that the measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

- (30) 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."
- (31) The Icelandic authorities have submitted a notification of the aid measure and have not let the measure 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 aid measure

6.1 Introduction

- (32) 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".
- (33) 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.
- (34) 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.
- (35) 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 form of subsidised interest rates of loans

- (36) In order to ensure access to liquidity to undertakings facing a sudden shortage, subsidised interest rates for a limited period and loan amount can be an appropriate, necessary and targeted solution during the current circumstances. The compatibility conditions for this type of measures are set out in Section 3.3. of the Temporary Framework.

- (37) The measure fulfils the criteria set out in Section 3.3 of the Temporary Framework, in particular:
- The interest rate of the loans will be equal to the base rate and the credit risk margin will be higher than the minimum credit risk margin for the 1st year for each type of beneficiary. The measure therefore complies with the requirement for the interest rates, as set out in paragraph 27(a) and (b) of the Temporary Framework.
 - The Fund shall administer and finalise all application for loans before 31 December 2020 and the undertakings shall repay the total amount of the loans at the latest six years from finalisation. The measure therefore complies with paragraph 27(c) of the Temporary Framework.
 - The maximum amount of the loan principal will be in accordance with the liquidity needs of the relevant traders of package travel, taking into account the reimbursement claims that traders of package travel are facing as a consequence of the effects of COVID-19. The aid is proportional since it does not exceed the company's actual liquidity needs. The measure therefore complies with paragraph 27(d)(iii) of the Temporary Framework.
 - The loans relate to investment and/or working capital needs. The measure therefore complies with paragraph 27(f) of the Temporary Framework.
 - The aid may not be granted to undertakings that were already in difficulty (within the meaning GBER) on 31 December 2019, which complies with paragraph 27(g) of the Temporary Framework, unless the undertakings are micro or small enterprises and meet the conditions of paragraph 27(b)(bis) of the Temporary Framework.
- (38) Furthermore, ESA notes that the aid under the measure may not be cumulated with other aid covering the same eligible costs, or with aid under Section 3.2 of the Temporary Framework, insofar as the overall aid exceed the relevant thresholds. However, aid under the measure may be cumulated with other compatible aid, *de minimis* aid or with other forms of EU financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemption Regulations are respected.
- (39) On the basis of the above, ESA considers that the requirements laid down in Section 3.3 of the Temporary Framework are complied with.
- (40) ESA notes that Section 3.4 of the Temporary Framework does not apply directly, since the aid under the measure is not provided through credit institutions or other financial institutions as financial intermediaries.

6.3 Reporting and monitoring

- (41) The Icelandic authorities have confirmed that they will comply with the state aid transparency requirements, as laid down in Section 4 of the Temporary Framework. Thus, the Icelandic authorities will publish on the centralised state aid transparency website.¹¹ The measure will also form part of the annual reporting to ESA.

¹¹ See <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>.

- (42) It will be ensured that detailed records regarding the granting of aid under the measure are maintained for at least 10 years. Such records will contain all information necessary to establish that the conditions of the Temporary Framework and other conditions herein have been observed. These records will be provided to ESA upon request.
- (43) ESA therefore considers that the requirements laid down in Section 4 of Temporary Framework are complied with.

6.4 Final remarks

- (44) ESA notes that any potential issues related to the implementation or application of the EEA rules on package travel¹² are not directly linked to the measure at hand¹³ and so are not the subject of this decision.

7 Conclusion

- (45) On the basis of the foregoing assessment, the Authority 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.
- (46) The Icelandic authorities have confirmed that notification does not contain any business secrets or other information that should not be published.

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

¹² Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC.

¹³ Judgment of 15 June 1993, *Matra v Commission*, C-225/91, ECLI:EU:C:1993:239.