Brussels, 12 November 2020
Case No: 85836
Document No: 1161352
Decision No 133/20/COL

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

Subject: 4th amendment to the COVID-19 Guarantee scheme

1 Summary

(1) The EFTA Surveillance Authority ("ESA") wishes to inform Norway that, having assessed the notified prolongation and amendments to the COVID-19 Guarantee scheme ("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] to the measures, as they are 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 Norwegian authorities notified the measure on 11 November 2020.[2]

3 Description of the measures

3.1 The COVID-19 Guarantee scheme

(3) By Decision No 028/20/COL, ESA approved a scheme aimed 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 ("the scheme").

(4) By Decision No 031/20/COL, ESA approved an amendment to the scheme (inclusion of large undertakings). By Decision No 48/20/COL, ESA approved a prolongation of the scheme. By Decision No 100/20/COL, ESA approved a further amendment to the scheme (aid to micro or small enterprises in difficulty).

3.2 The notified prolongation

(5) Both the COVID-19 outbreak and public preventative measures have had a major negative impact on the Norwegian economy. Although much economic activity remains possible in Norway, restrictions are still in force, such as various social distancing measures. The Norwegian authorities believe that in the coming months, some enterprises will experience a lack of access to liquidity due to the effects of the pandemic, as local, regional and national authorities must take action to reduce infection rates.

[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 1162757, 1162755, 1162759.

(6) The scheme is set to expire by 31 December 2020. However, following the amendment of 13 October 2020, the Temporary Framework ("TF") now allows for guarantee schemes to remain in force until 30 June 2021. The Norwegian authorities propose to extend the scheme accordingly. The measure would consequently allow for new guaranteed loans to be granted until 30 June 2021.

(7) The justification is that significant preventative measures remain in place, affecting many enterprises' ability to run their businesses normally, and that the effects of the COVID-19 outbreak are still unfolding.

3.3 The notified amendments

(8) When the scheme was established in March 2020, the Norwegian authorities decided that the loans and guarantees under the scheme should have a maximum duration of three years. Paragraph 25(f) TF, however, allows for a duration of up to six years.

(9) The Norwegian authorities explain that the scheme has been widely used and that it likely has saved many businesses and jobs across Norway. However, some businesses that are able to carry out a certain degree of economic activity may find it difficult to repay the loan within the shorter, nationally mandated, duration of the guarantee and loan, but would have fewer or no difficulties within the maximum duration set out in paragraph 25(f) TF. Hence, the Norwegian authorities propose to change the scheme accordingly. Extending the maximum duration of guaranteed loans to six years will facilitate banks and businesses agreeing longer repayment periods, make payment plans more manageable for businesses and lower the risk of default.

(10) In connection with the amendment of the maximum duration, the rules on guarantee premiums in the scheme will be amended to ensure correct guarantee premium payments for years four to six of the guarantee, in accordance with the table set out in paragraph 25(a) TF. Currently, the scheme follows the minimum guarantee premium structure, as originally set out in paragraph 25(a) TF of 20 March 2020.

(11) In accordance with the original guarantee premium structure of the TF, the scheme[3] mandates that the guarantee premium to be paid on all loans with a duration of more than one year is 50 or 100 bps, including loans with a duration of one year with options to extend the duration for up to three years. This ensures correct minimum guarantee premium payments for year one to three of any loan granted under the scheme. The amendment would be an amendment in line with paragraph 25(a) TF, in order to include rules on guarantee premium payments for the additional years four to six of guaranteed loans (100 or 200 bps).

(12) All other conditions of the scheme will remain the same, including the budget of NOK 50 billion.

4 Presence of state aid

(13) Article 61(1) of the EEA Agreement states that "[…] 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

[3] See Section 16 of Regulation on amendments to Regulation 27 March 2020 No 490 to the Act on a Government guarantee scheme for SMEs.

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."

(14) 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.

(15) ESA has concluded that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.[4] There is nothing in the measures to alter this conclusion. In light of that, ESA concludes that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

(16) 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."

(17) The Norwegian authorities have notified the measures and have yet to let them enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the measures

(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 current COVID-19 outbreak, the Commission adopted the TF 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 Agreements. The Commission confirms that the current situation, specifically the effect of the containment measures adopted by national states on their economies, justify that the 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 face by undertakings to ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability.

(20) The Norwegian authorities designed the scheme to comply with section 3.2 of the TF. The Commission has amended the TF one more time (on 13 October 2020) since ESA adopted its most recent decision concerning the scheme.

(21) The extended duration of the scheme, until 31 June 2021, complies with paragraph 25(c) TF. The longer maximum duration of the guarantees, up to six years, complies with paragraph 25(f) TF. No changes are made to the guarantee premium structure of the scheme other than the amendments to include premium structures for years four to six. Therefore, the alternative guarantee premium mechanisms, set out in paragraph 25(b) TF, are not relevant.

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[4] Decision No 028/20/COL, paragraphs 35 to 41.

7 Conclusion

(22) On the basis of the foregoing assessment, ESA considers that the measures constitute state aid with 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(3)(b), ESA has no objections to the implementation of the measures.

(23) The Norwegian authorities have confirmed that the notification does not contain confidential information.

For the EFTA Surveillance Authority,

Yours faithfully,

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