

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

Subject: COVID-19 – Prolongation of and amendments to the Norwegian umbrella scheme for liquidity support for undertakings in municipalities hit by the COVID-19 pandemic

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified prolongation of and amendments to the Norwegian umbrella scheme for liquidity support for undertakings in municipalities hit by the COVID-19 pandemic (“the measures”), it considers that they constitute state aid within the meaning of Article 61(1) of the EEA Agreement. ESA decides not to raise objections¹ 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 measures on 14 December 2021.²

3 Description of the measures

3.1 Background

- (3) In order to counteract the negative effects of the COVID-19 pandemic on the economy, the Norwegian authorities notified the umbrella scheme for the liquidity support for undertakings in municipalities on 16 April 2021 (“the umbrella scheme” or “the scheme”). The scheme was approved by ESA through [Decision No 031/21/COL](#) for the time period 16 April to 31 December 2021.
- (4) The umbrella scheme was part of a wider municipal compensation scheme for local undertakings (“the municipal compensation scheme”). Under the municipal compensation scheme, the municipalities could choose to grant support (i) through the *de minimis* Regulation,³ (ii) under the *GBER*-Regulation,⁴ (iii) to entities which are not “undertakings” within the meaning of state aid rules, (iv) through individual, notifiable aid schemes, or (v) under the umbrella scheme.

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 No 1255743.

³ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty of the Functioning of the European Union to *de minimis* aid ([OJ L 352, 24.12.2013, p. 1](#)), incorporated into Article 1ea of [Annex XV](#) to the EEA Agreement.

⁴ 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](#)), incorporated into Article 1j of [Annex XV](#) to the EEA Agreement.

- (5) Under the scheme, the Norwegian Parliament has approved a total budget of NOK 3.05 billion for liquidity support in the year 2021 in an attempt to aid undertakings and other entities in municipalities affected by the COVID-19 pandemic. Approximately NOK 2.8 billion have been allocated to the municipalities at four different points in time: NOK 1 billion on 25 February, NOK 750 million on 15 April, NOK 750 million on 25 June and NOK 330 million on 11 October.
- (6) NOK 208 million of the approved funds are still to be allocated.

3.2 The continued impact of COVID-19 and the need for a prolongation and amendments

- (7) Despite the slow recovery of the Norwegian economy from the COVID-19 pandemic over the second half of 2021, both local and national measures have been re-imposed to counteract further outbreaks. These measures were considered necessary in light of the rising infection numbers and the discovery of the new Corona-variant *Omicron* in Norway.
- (8) Further local or regional measures, that have the potential to severely affect local undertakings, might be imposed during the winter and spring of 2022, if the pandemic evolves and a reduction in economic activity persists.
- (9) The Norwegian authorities have therefore decided to allocate the remaining funds of NOK 208 million during December 2021. Additionally, the Norwegian authorities see a potential need for increased funding to counteract the anticipated impact of further sanitary measures. Hence, a further NOK 1.5 billion may be allocated to the scheme by the Parliament. According to the Norwegian authorities, the umbrella scheme remains unchanged apart from the notified measures. For detailed information on the conditions of the scheme, reference is made to [Decision No 031/21/COL](#).

3.3 The notified measures

3.3.1 Objective

- (10) The objective of the measures is to ensure the continued access to liquidity funding for undertakings impacted by the COVID-19 pandemic, and aid the recovery from the economic hardships that have followed.

3.3.2 Aid granting authority

- (11) The Norwegian authorities have explained that regional county authorities (*fylkeskommuner*) will also be granting authorities under the scheme as amended. Hence, both municipalities, as already provided for under the initial scheme, and regional county authorities may be the granting authorities under the umbrella scheme. These authorities will be responsible for establishing and conducting local or regional schemes.
- (12) The Ministry of Local Government and Modernisation remains responsible for the umbrella scheme. It will define the framework within which municipalities and regional county authorities may adapt and prioritise local and regional schemes.

3.3.3 Increased aid ceiling

- (13) The aid ceiling under the scheme will be increased from EUR 1.8 million to EUR 2.3 million per undertaking, as provided for under the [Temporary Framework](#),⁵ paragraph 22(a).

3.3.4 Budget

- (14) The notified maximum estimated budget will be NOK 4.55 billion. This entails a NOK 1.5 billion increase from the initial maximum estimated budget of NOK 3.05 billion.

3.3.5 Increased duration and reporting obligations

- (15) The Norwegian authorities intend to prolong the duration of the scheme from 31 December 2021 until 30 June 2022. Aid from the umbrella scheme can therefore be granted no later than 30 June 2022.
- (16) The Norwegian authorities have committed to submitting annual reports and provide ESA with a list of measures put in place based on the umbrella scheme. In light of the 6th amendment to the Temporary Framework, the submission deadline is extended from 31 December 2021 to 30 June 2022.

4 Presence of state aid

4.1 Introduction

- (17) 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.”
- (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 previously concluded that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement. The amendments and the prolongation, as described above, do not alter the previous assessment. The measures therefore constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

- (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.”

⁵ Communication from the Commission Sixth Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 ([OJ C 473, 24.11.2021, p. 1](#)).

- (21) 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 aid

- (22) In derogation from the general prohibition of state aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the Agreement. The Norwegian authorities invoke Article 61(3)(b) of the EEA Agreement as the basis for the assessment of the compatibility of the aid measures.
- (23) According 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”.
- (24) 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.
- (25) In the approval decisions referred to in paragraph (3) above, ESA concluded that the scheme is compatible with the functioning of the EEA Agreement pursuant to Article 61(3)(b).
- (26) There is nothing to indicate that this conclusion should be altered with respect to the measures. ESA notes in particular, as described in paragraph (10) above, that the measures provide liquidity support and therefore financial security to undertakings negatively impacted by the COVID-19 pandemic. The impact of the crisis has been varied and differs between local communities and sectors across Norway, which also calls for a variety of support measures. The scheme therefore provides a framework within which aid can be given to undertakings that experience increased costs and losses.
- (27) ESA considers that the measures are compatible. ESA has based this conclusion, in particular, on the following considerations:
- The aid granted under the measures cannot exceed EUR 2.3 million per undertaking, in line with paragraph 22(a) of the Temporary Framework.
 - The aid is granted on the basis of a compensation scheme with an estimated budget of NOK 4.55 billion. Therefore, the measures comply with the condition in paragraph 22(b) of the Temporary Framework.
 - The aid will be granted no later than 30 June 2022, in compliance with paragraph 22(d) of the Temporary Framework.
 - The aid will not be granted to undertakings which were in difficulty, within the meaning of article 2 of the General Block Exemption,⁶ on 31 December 2019.

⁶ 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](#)), incorporated into Article 1j of [Annex XV](#) to the EEA Agreement.

- (28) The inclusion of regional authorities as granting authorities is purely an administrative change and does not change this assessment.
- (29) The Norwegian authorities have also confirmed that all applicable rules pertaining to cumulation and reporting under the Temporary Framework will be adhered to.
- (30) Based on the above, ESA concludes that the measures comply with the requirements of the Temporary Framework.

7 Conclusion

- (31) On the basis of the foregoing assessment, ESA considers that the prolongation of and amendments to the Norwegian umbrella scheme for liquidity support for undertakings in municipalities hit by the COVID-19 pandemic constitute state aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that aid is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(b), it has no objections to the implementation of the measures.
- (32) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published.

For the EFTA Surveillance Authority,

Bente Angell-Hansen
President
Responsible College Member

Högni S. Kristjánsson
College Member

Stefan Barriga
College Member

Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

*This document has been electronically authenticated by Bente Angell-Hansen,
Melpo-Menie Josephides.*