



EUROPEAN COMMISSION

Brussels, 4.12.2015
C(2015) 8933 final

Subject: **State aid / Denmark**
 Aid No SA.42389 (2015/N)
 Guarantee Scheme

Sir,

The European Commission (hereinafter "the Commission") wishes to inform Denmark that, having examined the information supplied by your authorities on the calculation method for the aid element in State guarantees granted under the Danish Growth Fund, it has decided not to raise any objections to the use of the method.

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) In accordance with Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter: "TFEU"), the Permanent Representation of Denmark to the European Union notified the Commission the prolongation of an existing calculation method mentioned above by electronic communication dated 30 June 2015, registered on the same day. The Commission requested supplementary information on 7 August 2015, which the Danish authorities provided by letters of 12 October and 5 and 12 November 2015, registered by the Commission on the same days.
- (2) Due to the urgency of the case, the Danish authorities have submitted a written request that the Commission decision be adopted in the English language.

2. DESCRIPTION

2.1. Title

- (3) Guarantee Scheme

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2.2. Objective

- (4) To prolong and slightly modify an existing calculation method of the State aid elements of guarantees.

2.3. Legal basis

- (5) Act no. 549 of 1 July 2002 (as amended) on Vækstfonden and executive order no. 1013 of 17 August 2007, applicable to the activities of Vækstfonden. Decision by the Finance Committee on 30 October 2009 (LBK nr. 549 af 1. juli 2002 (som ændret) om Vækstfonden og bekendtgørelse nr. 1013 af 17. august 2007 om Vækstfondens virke.)
Decision by the Finance Committee on 30 October 2009 (Beslutning truffet af folketingets finansudvalg den 30. oktober 2009.)

2.4. Duration

- (6) From 1 January 2016 until 31 December 2020.

2.5. Budget

- (7) The calculation method itself does not entail a budget amount. The calculation method will be applied with regard to aid to be granted under the Danish Growth Fund.

2.6. Beneficiaries

- (8) SME's active in the agricultural sector.
- (9) The aid in the form of guarantees calculated by means of the notified calculation method is not granted to:
- undertakings in difficulty within the meaning of the Union's Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty¹;
 - undertakings, which are subject to an outstanding recovery order following a previous Commission Decision declaring aid illegal and incompatible with the internal market.

2.7. Description of the method

- (10) The notification concerns a prolongation of an existing calculation method of the State aid element of guarantees – Commission Decision C(2010) 1589 of 11 March 2010² as State aid SA.29974 (N 682/2009) which was extended by one year from 31 December 2010 until 31 December 2011 by Commission Decision C(2010) 9362 of 15 December 2010³ concerning State aid SA.31856 (N 531/2010) and then again by another year from 31 December 2011 until 31 December 2012 by Commission Decision C(2011) 8141 of 11 November 2011⁴ concerning State aid SA.33699

¹ OJ C 249, 31.07.2014, p. 1.

² OJ C 228, 25.08.2010, p. 1.

³ OJ C 62, 26.2.2011, p. 15.

⁴ OJ C 350, 1.12.2011, p. 1.

(2011/N) and lastly until 31 December 2015 by Commission Decision C(2013) 1998 of 3 April 2013⁵ as State aid SA.35809 (2013/N).

- (11) The existing calculation method was approved for use in relation to Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001⁶ and Commission Regulation (EC) No 736/2008 of 22 July 2008 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production, processing and marketing of fisheries products⁷.
- (12) As these regulations are no longer in force, Denmark has notified to use the same calculation method to provide a transparent way of calculating the State aid element in guarantees granted in accordance with:

*Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union*⁸ (Agricultural Block Exemption Regulation, (hereinafter: the “ABER”).

- (13) In principle, aid granted in the form of State guarantees should not be considered transparent. However, as indicated in Article 5(2)(c)(ii) of the ABER, aid granted in the form of guarantees should be considered transparent:

“where before the implementation of the aid, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, or any successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation”

- (14) The notification at hand does not concern the granting of the individual aid in the form of guarantees itself. It only concerns a prolongation of and slight modification of an already existing method for calculating the aid intensity of the guarantees and will hence be assessed on the basis of the currently applicable *“Commission Notice on the application of Articles 87 and 88 of the EC treaty to State aid in form of guarantees”*⁹ (hereinafter: the “Guarantee Notice”).
- (15) Under the prolonged and slightly modified methodology for calculating the aid element of guarantees, the guarantees will continue to be given for a loan the beneficiary has contracted with a bank which are aimed at financing expansion of business activities, innovation, investments and succession. Loans may be granted in respect of specific investment purposes (purchase of machinery, vehicles, buildings, etc.) or in respect of general working capital requirements needed for expansion of

⁵ OJ C 204, 18.07.2013, p. 7.

⁶ OJ L 358, 16.12.2006, p. 3–21.

⁷ OJ L 201, 30.7.2008, p. 16–28.

⁸ OJ L 193, 1.7.2014, p. 1.

⁹ OJ C 155, 20.06.2008, p.10.

the borrower's business. Guarantees cannot be granted in regard to refinancing loans, or loans that will be used to discharge existing debts.

2.7.1. *Modification*

- (16) The expected administrative cost is increased from DKK 9 million to DKK 12 million due to the increase in the total guarantee volume from DKK 1000 million to DKK 1400 million for 2016-2017. This corresponds to 0.9% of the total value of the guarantee scheme and is unchanged.

2.7.2. *Calculation of the aid equivalent*

- (17) The Danish authorities confirm that the previously given commitments and information necessary for the approval of the calculation method in case of State aid SA.29974 (N 682/2009) as modified by SA.31856 (N 531/2010), SA.33699 (2011/N) and SA.35809 (2013/N) will remain valid under the submitted modification as described above. This means that:

- the maximum size of the underlying financial mechanism (the loan) will remain at DKK 2 million (app. EUR 270,000).
- the guarantee will continue to cover maximum 75% of the outstanding loan, *i.e.* maximum DKK 1.5 million (app. EUR 200,000).
- the initial fee will remain at 1.5% of the guaranteed amount and the yearly premium on the depreciated guarantee amount will remain at 1.5%.
- Vækstfonden's exposure –the exposure of the Danish State – will continue to be limited to a maximum loss rate of 20% on the entire portfolio.

- (18) The Danish authorities have confirmed that over the period 2013-2015 the Vækstfonden has paid almost DKK 22 million in guarantees under the scheme which corresponds to a default rate of 1.8 %. The default rate is expected to increase as the scheme matures but will not exceed 20%. Therefore, the Danish authorities consider the expected default rate of 20% to remain a reasonable and conservative estimate.

- (19) The Danish authorities commit to control the adequacy of the level of the theoretical market premium on the basis of the effective loss rate and adjust the theoretical market premium accordingly.

- (20) The calculation of the market premium for 2016-2017 is therefore:

Values in DKK		
Discount rate	2.99%	
Total loan volume	1867	million
Total guarantee volume (75% of loan)	1400	million
Expected default rate	20%	
Initial premium on taking up the loan	1.5%	
Yearly premium	1.5%	
Maximum loan amount	2	million
Maximum guarantee quote	75%	
Income from premiums	126	million

Administrative Cost	12 million
Payments on Loan Defaults	280 million
Capital Cost	26.9 million
Total Costs	318.9 million

Total Required Market Premium
(total cost: total guarantee volume) 22.78%

- (21) The aid equivalent calculation will stay the same, and hence in accordance with footnote 29 of the Guarantee Notice, and is the difference between (a) the outstanding sum guaranteed, multiplied by the risk factor of the scheme¹⁰, which represents the market premium, and (b) any premium paid, i.e. aid intensity = (guaranteed sum x risk) – premium paid.
- (22) Calculation of State aid rate of a loan over 6 years, taking the new parameters and conditions into consideration:

Calculation of State aid rate for a linearly depreciated loan over 5 years						
	Year 1	Year 2	Year3	Year 4	Year 5	Year 6
Outstanding loan	2000000	1666667	1333333	1000000	666667	333333
Outstanding guarantee	1500000	1250000	1000000	750000	500000	250000
Market premium	130155	108463	86770	65078	43385	21693
Actual premium	60000	25000	20000	15000	10000	5000
Aid element per year	70155	83463	66770	50078	33385	16693
Total aid element in present value	303327					
Rate of State Aid	20.22%					

- (23) A recalculation of the aid equivalent based on the amended parameters and conditions shows that the average state aid element in the guarantees from now on will be 20.28% for a linearly depreciated loan over 6 years.

3. ASSESSMENT

- (24) According to Article 5(2)(c)(ii) of the ABER, aid comprised in guarantees shall be considered transparent and can be used in the framework of the Regulation if, before the implementation of the aid, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Guarantee Notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of the Regulation.

¹⁰ Risk being the probability of default after inclusion of administrative and capital costs

- (25) The calculation method at hand will be assessed on the basis of the Guarantee Notice. As already mentioned, the compatibility of the granting of the guarantees themselves is not at stake in the present notification.

3.1. Application of Commission notice on the application of article 87 and 88 of the EC Treaty to State aid in the form of guarantees – the Guarantee Notice

- (26) The existing calculation method was assessed in line with the Guarantee Notice and it is therefore necessary to assess whether the prolongation and slight modification in this notification impacts the original assessment.
- (27) As the Danish authorities have confirmed that the previously given commitments and information necessary for the approval of the calculation method in case of State aid SA.29974 (N 682/2009) as modified by SA.31856 (N 531/2010), SA.33699 (2011/N) and SA.35809 (2013/N) will remain valid under the submitted modification as described in this letter (cf. recital (17)).
- (28) The assessment of the original calculation method was done based on points 4.1 and 4.5 of the Guarantee notice.
- (29) Under the modified method the expected administrative cost is increased to be able to deal with the increase in the total guarantee volume (cf. recital (16)). The percentage, 0.9% of total guarantee volume, does not change and therefore the assessment of the calculation method is not affected by this change.
- (30) With reference to point 4.1 of the Guarantee notice and Denmark's confirmation in recitals (9), (17) and (21) of this decision, it can be concluded that:
- the State aid element is still calculated as the difference between the appropriate market price of the guarantee provided and the actual price paid for the guarantee,
 - the resulting yearly cash grant equivalents are discounted to their present value using the reference rate and then added up to obtain the total grant equivalent,
 - undertakings in difficulty within the meaning of the Union Guidelines on State Aid for rescuing and restructuring non-financial undertakings in difficulty are excluded from the scheme,
 - the extent of the guarantee can still be properly measured at the time of granting, and
 - the guarantee does not cover more than 80% of each outstanding loan.
- (31) With reference to point 4.5 of the Guarantee notice and recitals 8 and 16-21, it can be concluded that the use of a single premium can continue to be used for the calculation of the State aid elements in the guarantees of the Growth Guarantee Scheme as:
- the scheme is still only open for guarantees for loans to SMEs,
 - the guaranteed amount still does not exceed EUR 2.5 million per company,
 - the Danish authorities commit to control the adequacy of the level of the theoretical market premium on the basis of the effective loss rate and adjust the theoretical market premium accordingly, and
 - the theoretical market premium is still based on normal risks associated with granting the guarantee, the administrative costs of the scheme and a yearly remuneration of an adequate capital.

- (32) It follows from the foregoing that the notified prolongation of an existing calculation method, which calculates the aid element of the Danish Growth Guarantees granted to SME's active in the agricultural fulfils the conditions of the Guarantee notice. This assessment is without prejudice to any other present, pending or future case the Commission is assessing or will assess regarding guarantee measures in other areas.

4. CONCLUSION

The Commission has accordingly decided:

- not to raise any objections to the use of the notified calculation method for the purpose of calculating the aid element in guarantee schemes for SMEs in the agricultural sector and to accept that, provided the type of guarantee and of underlying transaction is explicitly addressed, aid in the form of guarantees calculated on the basis of this method is considered transparent in the meaning of Article 5(2)(c)(ii) of Commission Regulation (EU) No 702/2014 and therefore can be used for exempted aid under this Regulation.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions¹¹ and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline Denmark will be deemed to agree to the publication of the full text of this letter. If Denmark wishes certain information to be covered by the obligation of professional secrecy please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(3) of Commission Regulation (EC) No 794/2004¹², to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN
Member of the Commission



¹¹ Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions, OJ C 297, 9.12.2003, p. 6.

¹² Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).