EUROPEAN COMMISSION

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PUBLIC VERSION

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Subject: **State Aid SA.56708(2020/N) – Denmark**
Danish guarantee scheme for SMEs affected by COVID-19

Excellency,

1. PROCEDURE

(1) By electronic notification of 13 March 2020, Denmark notified aid in the form of a loan guarantee scheme (*Garantiordning for udlån til små- og mellemstore virksomheder*, the "measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the "Temporary Framework").[1] Denmark submitted further information on 19 March 2020.

(2) The Danish authorities confirm that the notification does not contain business secrets.

(3) By letter of 17 March 2020, Denmark exceptionally agreed to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958,[2] and to have this Decision adopted and notified in English.

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[1] Communication from the Commission - Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, C(2020) 1863 final.

[2] OJ 17, 6.10.1958, p. 385.

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2. DESCRIPTION OF THE MEASURE

(4) Denmark considers that the COVID-19 outbreak has started to affect the real economy, as evidenced by numerous cancellations of conferences, business trips, vacations, restaurant visits, etc. The outbreak has thereby affected revenues in a broad range of economic sectors, in particular air transport, travel agencies, hotels, undertakings organising conferences and festivals, restaurants, museums, and other companies heavily reliant on tourism. There are also important consequences across value chains, particularly for small and medium-sized enterprises ("SMEs"), caused by the cutting of expenditures by large companies hit by the crisis and due to reduced activity in Danish society.

(5) At the moment of the adoption of this Decision, there is no expectation of a fast economic recovery. Consequently, the Danish authorities consider that a large number of companies operating in Denmark will soon be facing liquidity problems and a credit crunch unless granted new operating credits.

(6) Denmark explained that SMEs are the backbone of commercial Denmark. They are critical to growth. The companies affected support a large number of jobs, and mass bankruptcies among the established businesses would be detrimental to the future development of the Danish economy.

(7) Denmark therefore wishes to introduce a guarantee scheme for SMEs to limit the risks associated with issuing operating credits to the undertakings that are most severely affected. The measure seeks to ensure the continuation of business in otherwise healthy economic sectors affected by the credit crisis.

2.1. The nature and form of aid

(8) The aid will be provided in the form of a loan guarantee scheme. The measure will take the form of a risk sharing facility with banks to issue loans and thus help the affected companies obtaining the necessary financing to cover their operating costs.

2.2. National legal basis

(9) The legal basis for the measure is a direct act on the Danish Budget Law (*Aktstykke om garantiordning for SMV'er*). The measure will be elaborated in an administrative order issued under the Vækstfonden Act (*Bekendtgørelse om garantiordning for SMV'er (hjemlet i Lov om Vækstfonden*).

2.3. Administration of the measure

(10) The measure will be implemented by *Vækstfonden*, the Danish National Promotional Bank, in cooperation with private credit institutions and other financial institutions.

2.4. Budget and duration of the measure

(11) The Danish authorities confirm that no more than DKK 1 billion in aid will be granted under the measure.

(12) Under the measure, undertakings can apply for guarantees as from its approval until 15 October 2020. No guarantees will be granted after 31 December 2020.

The measure can cover revenue losses experienced during the period 1 March 2020 to 30 September 2020.

2.5. Beneficiaries

(13) The final beneficiaries of the measure are all SMEs[3]. The aid is granted to the beneficiaries through credit institutions and other financial institutions as financial intermediaries.

(14) The guarantees will only be granted to SMEs that were not in difficulty on 31 December 2019 within the meaning of the General Block Exemption Regulation (“GBER”)[4].

(15) The company must be registered in the Danish CVR register, which is open to all undertakings. Companies under an outstanding State aid recovery order are excluded from the measure.

2.6. Sectoral and regional scope of the measure

(16) The measure is open to all sectors. It applies to the whole territory of Denmark and can be extended to the Faroe Islands and Greenland.

2.7. Basic elements of the measure

(17) The measure involves a State guarantee that covers 70 percent of the losses incurred on new operating loans to the concerned SME. The measure will be operated in cooperation between *Vækstfonden* and private credit institutions and other financial institutions. Those institutions will cover 30 percent of the losses and are in charge of the credit assessments, the selection of companies, and the issuance of new operating credit to the companies selected. *Vækstfonden* and the private banks will cover losses *pari passu*. The Danish authorities have also confirmed that the mobilisation of the guarantees is contractually linked to specific conditions which are agreed between the parties when the guarantee is initially granted.

(18) An SME is eligible if it experiences or expects to experience a decline in revenue of at least 30 percent. The decline in revenue will be calculated by comparing the revenues of the SME in a period of at least 14 days between 1 March 2020 to 30 September 2020 with the revenues of the SME during the same period in 2019.

(19) The loan applications can be based on a combination of actual revenue losses and expected future revenue losses within the period from 1 March 2020 to 30 September 2020. If an expected revenue loss does not materialise, the State guarantee will be reduced accordingly.

(20) The measure does not impose an absolute limit on the loan underlying the guarantee per company. However, the loan amount is limited by the actual and

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3 Within the meaning of Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (Text with EEA relevance) (notified under document number C(2003) 1422).

4 As defined in Article 2 (18) of the 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 of 26.6.2014, p. 1.

expected losses of revenue of the recipient company during the reference period, as determined in recital (19). The Danish authorities also commit that the guaranteed loan under the measure will not exceed the maximum amounts of the underlying loan as laid down in point 25 (d) of the Temporary Framework.

(21) *Vækstfonden* will collect from the financial intermediary an administration fee of DKK 2 500 for every guarantee issued and a yearly guarantee premium of 100bps expressed as a percentage of the outstanding guaranteed amount, regardless of the maturity of the guaranteed loan. When providing a loan to a company, a bank will set the interest rate on the loan based on the bank's risk assessment of the relevant company and thus a differentiated pricing will be ensured for the guaranteed loan.

(22) The maximum maturity of the guarantee is seven years with a linear amortisation.

(23) Under the conditions of the State guarantee, the new credit cannot be used to amortise other debt. The aid received cannot be cumulated with other State aid granted for the same costs. The revenue loss must be less of any payments from private insurance or other public support measures. Any overcompensation must be paid back to the Danish authorities.

(24) Denmark expects losses of around 31 percent on the guarantees. The average loan size for loans eligible under the measure is estimated to be DKK 3 million. The average guarantee amount is thus estimated to be DKK 2.25 million. The budget of DKK 1 billion has thus a capacity to finance approximately 1 600 companies under the measure.

2.8. Cumulation

(25) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.

(26) The aid received cannot be cumulated with other State aid granted to the same costs.

2.9. Monitoring and reporting, language of decision, business secrets

(27) The Danish authorities confirm that the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework will be respected (*e.g.*, by 31 December 2020, a list of measures put in place on the basis of the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.). In particular, information will be obtained demonstrating that the beneficiary was not a company in difficulty on 31 December 2019 within the meaning of the GBER.

3. ASSESSMENT

3.1. Legality of the measure

(28) By notifying the measure before putting it into effect, the Danish authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(29) By virtue of Article 107(1) TFEU, "*any aid granted by a Member State 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 Member States, be incompatible with the internal market.*"

(30) The measure is imputable to the State, since it is enacted through a direct act on the Danish Budget Law (*Aktstykke om garantiordning for SMV'er*) and it is operated by the Ministry of Industry, Business and Financial Affairs of Denmark through *Vækstfonden*, the Danish National Promotional Bank. The measure involves State resources, since it is granted in the form of subsidised State guarantees.

(31) The measure is selective, since it is awarded only to certain undertakings, in particular SMEs active in Denmark.

(32) The measure confers an advantage on its beneficiaries by relieving them of costs which they would have had to bear under normal market conditions. That advantage is granted to the companies in the form of subsidised State guarantees, which transfer a financial benefit otherwise unavailable to those companies on the market. Without the intervention of the State, the beneficiaries would only obtain loans at higher costs, if at all.

(33) The measure affects trade between Member States and is liable to distort competition, since it strengthens the competitive position of its beneficiaries, which are active in sectors in which intra-Union trade exists.

(34) In view of the above, the Commission considers that the measure constitutes State aid within the meaning of Article 107(1) TFEU. The Danish authorities do not contest that conclusion.

3.3. Compatibility

(35) Having established that the measure involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether the measure can be found compatible with the internal market.

(36) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(37) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that "*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*". The Commission concluded that "*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*".

(38) The measure aims at increasing banks' willingness to issue credit and thus helps companies affected by the COVID-19 outbreak to obtain the necessary financing to cover their operating costs at a time when the normal functioning of credit markets is severely disturbed by that outbreak and where that outbreak is affecting the wider economy and is leading to severe disturbances of the real economy of Member States.

(39) The measure is one of a series of measures conceived at national level by the Danish authorities to remedy a serious disturbance in their economy. The importance of the measure to increase banks' willingness to issue credit during the COVID-19 outbreak is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Danish economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of guarantees on loans*") described in Section 3.2 of the Temporary Framework and the requirements for aid in the form of guarantees and loans channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.

(40) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The measure sets minimum levels for guarantee premiums. The price structure of the measure consists of a signing fee of DKK 2.500 for every guarantee issued and a yearly risk premium of 100bps expressed as a percentage of the outstanding guaranteed amount regardless of the maturity of the guaranteed loan. The premium charged under the measure therefore meets the minimum premiums for SMEs described in point 25 (a) of the Temporary Framework.

- The measure complies with point 25 (c) of the Temporary Framework, which requires guarantees to be granted by 31 December 2020 at the latest. The measure allows revenue losses experienced in the period from 1 March 2020 to 30 September 2020 to be covered. The preliminary expiration date to apply for a guarantee will be 15 October 2020. In addition, the Danish authorities have confirmed that no guarantees will be granted under the measure after 31 December 2020.

- The measure complies with point 25 (d) and (e) of the Temporary Framework, which concern the maximum allowed loan amounts. Under the measure, the guarantee can only cover new credits no higher than the documented and/or expected revenue losses resulting from the COVID-19 outbreak and relevant for the period from 1 March 2020 to 30 September 2020. The company must experience or expect a decline in revenue of at least 30 percent based on a reference period explained in recital (18). In addition, the Danish authorities commit to ensure that the guaranteed loan under the measure will not exceed the maximum amounts of the underlying loan as required by point 25 (d) of the Temporary Framework.

- The measure provides for a coverage ratio of 70 percent and requires that losses are sustained proportionally and under the same conditions by the financial intermediary and the State. The measure therefore complies with point 25(f) of the Temporary Framework.

- Regarding the duration of the guarantee, while point 25 (f) of the Temporary Framework only allows for guarantees with a duration of six years, point 25 (b) allows maturities beyond a six year period, provided that the longer duration is off-set by either a higher compensation for the guarantee or lower coverage ratios. The maximum duration of guarantees allowed under the measure is seven years with linear amortisation. The maximum coverage ratio under the measure of 70 percent is below the maximum 90 percent allowed under point 25 (f) of the Temporary Framework. This increased risk-sharing ensures a sufficient incentive for intermediary banks to assess adequately the risk of providing a loan and to decide whether the maturity of the guaranteed loan is not longer than what is necessary to ensure the survival and continued growth prospects of the company. In addition, the Commission takes comfort in the fact that the Danish authorities expect that most guaranteed loans will have a significantly lower duration than seven years. For flexible credit facilities to Danish companies at the end of 2019 in general, 90 percent had a duration of less than five years and 76 percent of less than two years.

- The measure only applies to operating credits for SMEs. It therefore complies with point 25 (g) of the Temporary Framework.

- The measure specifies that the company must not be considered a company in difficulty within the meaning of the GBER on 31 December 2019. It therefore complies with point 25 (h) of the Temporary Framework.

(41) The Commission also considers that the measure fulfils the conditions listed in Section 3.4 of the Temporary Framework regarding aid in the form of guarantees and loans channelled through credit institutions or other financial institutions. In particular:

- The measure complies with point 31 of the Temporary Framework, which requires that the financial intermediary must be able to demonstrate that it operates a mechanism that ensures that the advantages are passed on, to the largest extent possible, to the final beneficiaries. The Danish authorities state that the measure entails that banks must take on three times as much risk as required under the Temporary Framework (30 percent instead of 10 percent). Furthermore, the undertakings in the target group are experiencing substantial losses hampering their ability to service expensive debt. Considering the banks' relatively high exposure on the loans, they have an incentive to offer loans on the most favourable conditions possible to avoid the undertaking from defaulting, both on the new credit and any other, older credits granted earlier, seeing as that would entail substantial losses to the bank. The Commission also takes into account the fact that the all commercial banks have, in principle, access to the guarantee scheme, creating competition between the banks.

(42) The Danish authorities have confirmed that the monitoring and reporting rules laid down in Section 4 of the Temporary Framework will be respected.

(43) In line with section 5.3 of the Commission Notice on the application of Articles 107 and 108 TFEU to State aid in the form of guarantees[5], the mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the parties when the guarantee is initially granted

(44) The Commission accordingly considers that the notified measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)b) and meets all the relevant conditions of the Temporary Framework.

4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU

(45) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"**BRRD**"**)[6] in the event that an institution benefiting from the measures meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of BRRD.

(46) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU under the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.[7] Nevertheless, such indirect aid does not have the objective to preserve or restore the viability, liquidity or solvency of those institutions. The objective of the aid at issue is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, such aid does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD.

(47) Moreover, as indicated in recital (41) above, the measure introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest possible extent, pass on the advantages of the notified measures to the final beneficiaries.

(48) The Commission therefore concludes that the measure does not appear to violate any intrinsically linked provisions of BRRD.

[5] OJ C 155, 20.6.2008, p. 10–22.

[6] OJ L 173, 12.6.2014, p. 190-348.

[7] Points 6 and 29 of the Temporary Framework.

5. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION