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PUBLIC VERSION

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Subject: State Aid SA.56722 – Latvia – COVID-19: Loan guarantee scheme and subsidised loan scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 20 March 2020, Latvia notified aid in the form of a loan guarantee scheme and a subsidised loan scheme under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak adopted on 19 March 2020 (hereinafter referred to as the "Temporary Framework").[1] Latvia submitted further information on 21 and 22 March 2020.

(2) The Latvian authorities confirmed that the notification does not contain business secrets.

(3) By letter of 20 March 2020, Latvia 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.

[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, https://ec.europa.eu/competition/state_aid/what_is_new/covid_19.html, not yet published in the OJ.

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

Edgars RINKĒVIČS
Ārlietu Ministrs
K.Valdemāra iela 3,
Rīga LV-1395

2. DESCRIPTION OF THE MEASURES

(4) Latvia considers that the COVID-19 outbreak starts affecting the real economy. The measures form part of an overall package of measures and aim to ensure that sufficient liquidity remains available in the markets, to counter the damage inflicted on impacted undertakings and to preserve the continuity of economic activity during and after the COVID-19 outbreak.

(5) The measures have been designed to be compatible with the internal market under Article 107(3)(b) TFEU, as interpreted by Section 2 of the Temporary Framework.

2.1. The nature and form of aid

(6) The aid will be provided in the form of subsidised guarantees for investment and working capital loans ("Measure A") and subsidised working capital loans ("Measure B").

2.2. National legal basis

(7) The legal bases for the measures are the following:

- For Measure A: Regulation No 150 on guarantees for undertakings whose operations are affected by the COVID-19 outbreak, adopted by the Cabinet of Ministers of the Republic of Latvia on 19 March 2020, as amended.

- For Measure B: Regulation No 149 on working capital loans for undertakings whose operations are affected by the COVID-19 outbreak, adopted by the Cabinet of Ministers of the Republic of Latvia on 19 March 2020, as amended.

2.3. Administration of the measure

(8) The measures will be implemented by the State-owned Joint Stock Company and Latvian public development bank "Attīstības finanšu institūcija Altum" (Development Finance Institution Altum, hereinafter referred to as "Altum"). The measures will be granted either directly (Measure B) or through credit institutions and other financial institutions as financial intermediaries (Measure A).

2.4. Budget and duration of the measures

(9) The Latvian authorities estimate the budget and duration of the measures as follows:

- For Measure A: The overall budget is EUR 50 million in the form of a capital injection from the State budget into Altum and/or financing of Altum from EU Structural funds. The guarantees can be granted as from the date of Commission approval until 31 December 2020 and are limited to maximum six years for investment loans and financial leasing and three years for working capital loans.

- For Measure B: The overall budget is EUR 200 million. EUR 50 million will be given in the form of a capital injection from the State budget into Altum and/or financing of Altum from EU Structural funds, while additional EUR 150 million will be raised by Altum in the form of loans from an international financial institution (*e.g.*, the European Investment Bank) or from the State

Treasury. The loans can be granted from the date of Commission approval until 31 December 2020 and are limited to maximum three years.

2.5. Beneficiaries

(10) The final beneficiaries of the measures are undertakings registered in Latvia, irrespective of their size. The aid may be granted to undertakings that were not in difficulty[3] on 31 December 2019. It may be granted to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019, but faced difficulties or entered in difficulty thereafter as a result of the COVID-19 outbreak.

2.6. Sectoral and regional scope of the measures

(11) The measures apply to the whole territory of Latvia and are open to all sectors, with the exception of retail sale of weapons and ammunition, manufacture and sale of tobacco products, sale of beverages, gambling and betting activities, financial and insurance activities and real estate activities. In addition to these sectors, Measure B also does not apply to the purchase of trucks by undertakings engaged in the freight transport by road as well as to the restructuring of other loans.

2.7. Basic elements of the measures

2.7.1. Measure A

2.7.1.1. Nature of eligible instruments

(12) Measure A provides for the issuance of guarantees in relation to the following types of instruments:

- existing investment loans and financial leasing, where the credit institution postpones the payments of loan principal for a maximum period of two years (‘grace period’) and extends the duration of these instruments, where necessary.

- new working capital loans, including credit lines and overdrafts, or existing working capital loans where the credit institution extends their duration.

[3] As defined in Article 2(18) of 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, Article 2(14) of 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, OJ L 193 of 1.7.2014, p.1, and Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369 of 24 December 2014, p. 37.

2.7.1.2. Maximum amount of eligible instruments

(13) The amount of the eligible instruments (loan principal) does not exceed 25 percent of total turnover of the beneficiary in 2019. In any event, the guaranteed amount does not exceed EUR 5 million per undertaking, including linked enterprises.[4]

2.7.1.3. Maximum amount of the guarantee

(14) The guarantee does not exceed 50 percent of the loan principal and the losses are sustained proportionally and under same conditions, by the credit institution and Altum. Furthermore, the Latvian authorities confirmed that when the size of the loan decreases over time, the guaranteed amount decreases proportionally.

2.7.1.4. Maximum duration of the guarantee

(15) The duration of the guarantee is limited to maximum six years for investment loans and financial leasing and three years for working capital loans, including, where applicable, the grace period.

2.7.1.5. Remuneration of the guarantee

(16) The guarantee is remunerated on the basis of a flat annual premium for small and medium-sized enterprises ("SMEs") and large enterprises and a higher annual premium in years four to six for large enterprises, where the duration of the guarantee is four to six years. The applicable premia are defined as follows:

Type of recipient	Credit risk margin for 1-year of the guarantee	Credit risk margin for 2-3 years of the guarantee	Credit risk margin for 4-6 years of the guarantee
SMEs	50bps	50bps	50bps
Large enterprises	50bps	50bps	125bps

2.7.1.6. Mobilisation of the guarantee

(17) The Latvian authorities confirmed that the mobilisation of the guarantee is contractually linked to specific conditions which are agreed between the parties when the guarantee is initially granted.

(18) In particular, the guarantee is mobilised when the beneficiary has failed to meet its payment obligations under the eligible instrument for a minimum period of 90 calendar days. The guarantee cannot be mobilised earlier than 1 July 2020.

2.7.1.7. Additional provisions

(19) In principle, all commercial credit institutions have access to the measure.

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4 As defined in Article 3(3) 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, and Article 3(3) of 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, OJ L 193 of 1.7.2014, p.1.

(20) Upon submission of an application by an eligible undertaking to a credit institution, the latter decides on the issuance/restructuring of the eligible instrument upon a guarantee issued by Altum based on an assessment of the viability of the undertaking.

(21) The credit institution prepares and collects the necessary documents from the undertaking and submits the guarantee application to Altum. The latter evaluates the undertaking and decides on the issuance of the guarantee.

(22) The guarantee can be granted only if it is established on the basis of the documents submitted to Altum that the liquidity support is required as a result of the impact of COVID-19. Such impact is justified based on a number of criteria, including the reduction of the undertaking's turnover or the deterioration of its liquidity ratios compared to the respective period of the previous year.

2.7.2. Measure B

2.7.2.1. Nature of eligible instruments

(23) Measure B provides for financing in the form of working capital loans with a maximum duration of three years.

2.7.2.2. Maximum amount of eligible instruments

(24) The amount of the loan does not exceed EUR 1 million per undertaking, including linked enterprises,[5] and, in any event, does not exceed one of the following:

(a) the double of the annual wage bill of the beneficiary (including social charges) for 2019 or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan shall not exceed the estimated annual wage bill for the first two years in operation; or

(b) 25 percent of the total turnover of the beneficiary in 2019; or

(c) with appropriate justification and based on self-certification by the beneficiary, the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises.

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[5] As defined in Article 3(3) 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, and Article 3(3) of 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, OJ L 193 of 1.7.2014, p.1.

2.7.2.3. Remuneration

(25) The loans can be granted at reduced interest rates which are at least equal to the base rate (1 year IBOR or equivalent as published by the Commission)[6] applicable on 1 January 2020 plus the credit risk margins as set-out in the table below:

Type of recipient	Credit risk margin for a 1-year maturity loan	Credit risk margin for a 2-3 years maturity loan	Credit risk margin for a 4-6 years maturity loan
SMEs	25bps[7]	50bps[8]	100bps
Large enterprises	50bps	100bps	200bps

(26) The loans issued under this measure will be both secured and unsecured, depending on the actual situation of the beneficiary, while the rating of the beneficiaries will be provided by Altum.

2.7.2.4. Additional provisions

(27) Upon submission of an application by an eligible undertaking to Altum, the latter decides on the issuance of a loan based on an assessment of the viability of the undertaking, including an assessment of the undertaking's sustainability, the financing amount, the current and future financial position of the undertaking, the adequacy of the undertaking's knowledge and experience and the business risks and other factors.

(28) The loan can be granted only if it is established on the basis of the documents submitted to Altum that the liquidity support is required as a result of the impact of COVID-19. Such impact is justified based on a number of criteria, including the reduction of the undertaking's turnover or the deterioration of its liquidity ratios compared to the respective period of the previous year.

(29) The start date for the repayment of the loan may be deferred for up to twelve months depending on available liquidity to cover payments.

2.8. Cumulation

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

(31) The Latvian authorities confirmed that aid granted under section 3.2 of the Temporary Framework will not be cumulated with other aid granted for the same underlying loan principal under section 3.3 of the Temporary Framework, and vice versa.

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[6] Base rates calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p. 6).

[7] The minimum all-in interest rate (base rate plus the credit margins) should be at least 10 bps per year.

[8] The minimum all-in interest rate (base rate plus the credit margins) should be at least 10 bps per year.

2.9. Monitoring and reporting

(32) The Latvian 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 schemes approved under 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). In particular, information will be obtained demonstrating that the beneficiaries were not undertakings in difficulty on 31 December 2019.

3. ASSESSMENT

3.1. Legality of the measure

(33) By notifying the measures before putting them into effect, the Latvian authorities respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(34) 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*".

(35) The qualification of a measure as aid within the meaning of this provision therefore requires that the following cumulative conditions be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.

(36) The measures involve State resources since they are granted in the form of State guarantees and State loans. They are also imputable to Latvia, since they are enacted by the instruments indicated in recital (7) above and they are implemented by the public development bank Altum.

(37) The measures are selective since they are granted only to certain undertakings registered in Latvia, with the exception of the sectors indicated in recital (11) above.

(38) The measures confer an advantage on their beneficiaries in the form of subsidised guarantees and subsidised loans by relieving them of costs, which they would have to bear under normal market conditions since, without the intervention by the State, the beneficiaries would obtain loans only at higher costs, if at all.

(39) The measures affect trade between Member States and are liable to distort competition since they strengthen the competitive position of beneficiaries which are active in sectors where intra-Union trade exists.

(40) In view of the above, the Commission considers that the measures constitute State aid within the meaning of Article 107(1) TFEU. The Latvian authorities do not contest that conclusion.

3.3. Compatibility

(41) 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.

(42) 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*".

(43) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged 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*".

(44) The measures aim at facilitating the access of undertakings to finance at a time when the normal functioning of credit markets is severely disturbed the COVID-19 outbreak, and where the COVID-19 outbreak is affecting the wider economy and is leading to severe disturbances of the real economy of Member States.

(45) The measures form part of a series of measures conceived at national level by the Latvian authorities to remedy a serious disturbance in their economy. The importance of the measures to stimulate lending by private banks to enterprises 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 Latvian economy. Furthermore, the measures have been designed to meet the requirements of the specific categories of aid ("*Aid in the form of guarantees on loans*" and "*Aid in the form of subsidised interest rates for loans*") described in sections 3.2 and 3.3 of the Temporary Framework, respectively, 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.

(46) The Commission accordingly considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular:

(47) For Measure A (subsidised guarantees for investment and working capital loans):

- The minimum level of applicable guarantee premia indicated in recital (16) above is established in accordance with point 25(b) of the Temporary Framework, which provides that Member States may notify schemes considering point 25(a) as basis, but whereby maturity, pricing and guarantee coverage can be modulated. The coverage ratio of the measure is 50 percent, which is below the maximum 90 percent allowed under point 25(f) of the Temporary Framework. A lower coverage ratio allows for a lower pricing as the increased risk-sharing with financial intermediaries ensures that portfolios of guarantees held by the Latvian authorities will be less risky.

- As indicated in recital (9) above, the guarantees can be granted by 31 December 2020 at the latest in conformity with point 25(c) of the Temporary Framework.

- As indicated in recital (13) above, the maximum loan amount per beneficiary, which may be covered by guarantees, is limited in line with point 25(d)(ii) of the Temporary Framework to 25 percent of total turnover of the beneficiary in 2019.

- As indicated in recitals (14)-(15) above, the duration of the guarantees is limited to maximum six years in conformity with point 25(f) of the Temporary Framework, while the guarantees cover only 50 percent of the loan principal and the losses are sustained proportionally and under same conditions, by the credit institutions and Altum. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally.

- As indicated in recital (12) above, the guarantees relate to investment loans, working capital loans and financial leasing. The Commission notes that, by its nature, financial leasing is a form of loan for the purchase of a specific asset (*e.g.*, equipment, vehicle, agricultural machinery) where the lessor allows the lessee to use an asset for a specific period in return of a periodic payment. The Commission therefore considers that guarantees for financial leasing are covered by point 25(g) of the Temporary Framework, similarly to loans. Guarantees for investment loans and working capital loans are in line with point 25(g) of the Temporary Framework.

- As indicated in recital (10) above, the guarantees may be granted to undertakings that were not in difficulty on 31 December 2019, to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019, but that faced difficulties or entered in difficulty thereafter as a result of the COVID-19 outbreak. The measure therefore complies with point 25(h) of the Temporary Framework.

- 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,[9] 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.

(48) For Measure B (subsidised working capital loans):

- As indicated in recital (25) above, the minimum level of applicable interest rates is established in accordance with point 27(a) of the Temporary Framework.

- As indicated in recital (9) above, the loan contracts can be granted on 31 December 2020 at the latest in conformity with point 27(c) of the Temporary Framework and are limited to maximum three years.

[9] OJ C 155, 20.6.2008, p. 10–22.

- As indicated in recital (24) above, the maximum loan amount per beneficiary is limited in line with point 27(d) of the Temporary Framework.

- As indicated in recital (23) above, the loans relate to working capital needs in conformity with point 27(f) of the Temporary Framework.

- As indicated in recital (10) above, the loans may be granted to undertakings that were not in difficulty on 31 December 2019, to undertakings that are not in difficulty and/or to undertakings that were not in difficulty on 31 December 2019, but that faced difficulties or entered in difficulty thereafter as a result of the COVID-19 outbreak. The measure therefore complies with point 27(g) of the Temporary Framework.

(49) The Commission also considers that the Measure A 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 for the reasons set out below.

- *First*, the guarantee is granted to existing investment loans and financial leasing only if the credit institution postpones the payments of loan principal for a maximum period of two years and extends the duration of these instruments, where necessary, thus ensuring short term liquidity in a situation of financial distress. The guarantee is granted to existing working capital loans only if the credit institution extends their duration. Due to the guarantee, the intermediaries do not require additional collateral from the final beneficiaries.

- *Second*, the measure entails that financial intermediaries must take on five times as much risk as required under the Temporary Framework (50 percent instead of 10 percent). The eligible undertakings are experiencing substantial losses hampering their ability to service expensive debt. Considering the intermediaries' 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 intermediaries.

- *Finally*, the Commission takes into account the fact that the all commercial credit institutions have, in principle, access to the measure, thus creating competition between those institutions.

(50) Furthermore, the Latvian authorities confirmed that aid granted under section 3.2 of the Temporary Framework will not be cumulated with other aid granted for the same underlying loan principal under section 3.3 of the Temporary Framework, and vice versa. The measures therefore comply with point 26 of the Temporary Framework.

(51) Finally, as indicated in recital (32) above, the Latvian authorities confirmed that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected.

(52) The Commission therefore considers that the measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)b) TFEU and meet all the relevant conditions of the Temporary Framework.

4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014

(53) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution ("BRRD")[10] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism ("SRMR"),[11] in the event that an institution benefiting from the measures meets the condition for the application of that Directive or of that Regulation, the Commission notes that the measures do not appear to violate intrinsically linked provisions of BRRD and of SRMR.

(54) 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.[12] 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 and Art. 3(1) No 29 SRMR.

(55) Moreover, as indicated in recital (49) above, the measures introduce 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 these institutions, to the largest extent possible, pass on the advantages of the measures to the final beneficiaries.

(56) The Commission therefore concludes that the measures do not appear to violate any intrinsically linked provisions of BRRD and of SRMR.

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

[11] OJ L 225, 30.7.2014, p. 1-90.

[12] 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