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PUBLIC VERSION

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Subject: State Aid SA.56808 (2020/N) – Denmark
Liquidity guarantee scheme under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak

Excellency,

1. PROCEDURE

(1) By electronic notification of 24 March 2020, Denmark notified aid in the form of a liquidity guarantee scheme for exporting small and medium sized enterprises (“SMEs”)[1] affected by COVID-19 ("*Aktstykke om likviditetskaution for SMV'er*", “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).[2] Denmark supplemented the notification by additional information on 26, 27 March and 28 March 2020 and provided a revised notification on 30 March 2020.

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

1 In accordance with the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, OJ L 124, 20.5.2003, p.36.

2 Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C91, 20.3.2020, p.1.

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(3) Denmark exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,[3] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(4) Denmark considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak.

(5) According to the Danish authorities, the economic impact of COVID-19 outbreak has resulted in liquidity challenges for the Danish exporters, and in particular small and medium-size enterprises (‘SMEs) and their subcontractors, due to delays, problems and cancellations in their supply chains, as well as disappearing and closing export markets. The measure, however, is not export aid, i.e. it does not promote export activity and is not directly linked to elements such as the quantities exported or to the establishment and operation of a distribution network as defined by the General Block Exemption Regulation ("GBER")[4], the Block Exemption Regulation for the Agricultural Sector ("ABER")[5] and the Block Exemption Regulation for the Fishery and Aquaculture Sector ("FIBER")[6], but it guarantees loans to covers losses of SMEs that also do exports (see below recital (9).

(6) According to the Danish authorities, there is currently no expectation of a fast recovery and consequently, a large number of companies operating in Denmark will soon be facing liquidity problems and a credit crunch unless granted new operating credits.

(7) Therefore, the Danish authorities wish to introduce a guarantee scheme in order to limit the risks associated with issuing operating credits to the exporting SMEs and their subcontractors.

(8) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union (“TFEU”), as interpreted by Section 2 of the Temporary Framework.

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3 Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

4 Article 1(2)(c) 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.

5 Article 1(4)(c) 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 TFEU, OJ L 193, 1.7.2014, p. 1.

6 Article 1(3)(b) 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 TFEU, OJ L 369, 24.12.2014, p. 37.

2.1. The nature and form of aid

(9) The Danish government wants to introduce a liquidity guarantee scheme for SMEs with a level of exports of at least 10% of their yearly revenue and their sub-suppliers (SMEs), which have realised or expect to realise a revenue loss of at least 30% as a consequence of the developments of the COVID-19 crisis[7].

(10) The measure provides aid in the form of guarantees on new loans in order to limit the risks associated with issuing operating credits to the undertakings that are most severely affected, thus ensuring the continuation of business in otherwise healthy businesses affected by the crisis.

2.2. National legal basis

(11) The legal basis for the measure is the Budget Law Act on EKF Liquidity Guarantee ("*Aktstykke om likviditetskaution for SMV'er*").

2.3. Administration of the measure

(12) The Danish Export Credit Agency ("EKF") is responsible for administering the measure. The scheme will be introduced by means of a direct act on the Danish Budget Law and elaborated in an administrative order issued under the EKF Act.

2.4. Budget and duration of the measure

(13) Initially, the Danish Government is allocating DKK 100 million (approximately EUR 13.4 million) of potential losses under the measure.

(14) Aid may be granted under the measure as from its approval until 31 December 2020.

2.5. Beneficiaries

(15) The final beneficiaries of the measure are SMEs registered in the Danish CVR register, which is open for all undertakings. The measure is for SMEs with level of exports of at least 10% of their yearly revenue and their SME-sub-suppliers, which have experienced or expect a decline in revenue of at least 30% as a consequence of the developments of COVID-19.[8]

(16) Aid may be granted under the measure only to undertakings that were not in difficulty within the meaning of GBER[9], ABER[10] and FIBER[11] 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 that faced

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[7] The revenue loss will be calculated by comparing the revenues in the period of at least 14 days, and no longer than the period from 1 March 2020 to the 30 September 2020, with the revenues of the same period in 2019.

[8] Ibid.,4.

[9] As defined in Article 2 (18) GBER.

[10] As defined in Article 2(14) ABER.

[11] As defined in Article 3(5) FIBER.

difficulties or entered into difficulty thereafter because of the COVID-19 outbreak. Aid is granted under the measure through commercial banks credit institutions as financial intermediaries.

2.6. Sectoral and regional scope of the measure

(17) The measure is open to all sectors. It applies to the whole territory of Denmark.

2.7. Basic elements of the measure

(18) The measure concerns a State guarantee that covers 80% of the losses incurred on only new operating credit to the companies concerned. The scheme will be operated by EKF in cooperation with private banks. The private banks will be in charge of the credit assessments and the selection of healthy SMEs and will benefit from a guarantee from the Danish State facilitated by EKF covering up to 80% of losses. EKF and the commercial banks will cover losses on the specific loans by means of risk sharing per tranche.

(19) The scheme, therefore, includes risk sharing with the commercial banks that must hold 20% of the risk on each tranche of the loans covered by the scheme. As a consequence, the commercial banks will have a strong incentive to keep loan sizes to the absolute necessity in order to limit their own exposure.

(20) As part of the guarantee scheme, EKF will collect a progressive guarantee premium in line with point 25(a) of the Temporary Framework:

Type of recipient	Credit risk margin for the 1st -year maturity loan	Credit risk margin for the 2nd and 3rd years maturity loan	Credit risk margin for the 4th to 6th years maturity loan
SMEs	25bps	50bps	100bps

(21) The duration of the guarantee is set to a maximum of six years with a re-evaluation of the guaranteed amount after a minimum of one year. The amortisation of the guarantee will follow the structure of the underlying loan, i.e. when the size of the loan decreases over time, the guaranteed amount decreases proportionally. Since the commercial banks are covering 20% of the risk on the loans, and since the loans cannot be used to amortise existing debt, the commercial banks will have, according to the Danish authorities, a strong incentive to ensure that maturities are not longer than necessary.

(22) Moreover, considering the banks' relatively high exposure on the loans, the commercial banks have an incentive to offer the loans on the most favourable conditions possible in order to avoid the undertaking defaulting, since that would entail substantial losses to the bank, both on the new credit and, if it already had prior exposure to that undertaking, any non-guaranteed, older credits granted earlier to the defaulting undertaking. According to the Danish authorities, this ensures that the aid will be passed on to the final beneficiaries.

(23) The Danish authorities submit that most loans guaranteed are expected to have a lower duration than six years, with an estimated average of three to four years.

(24) The guarantees will be granted on the following conditions:

- The new credit cannot be used to amortise other debt.

- The guarantee can only cover new credits no higher than the documented and/or expected revenue loss as a consequence of COVID-19. The revenue loss will be calculated by comparing the revenues in a period of at least 14 days, and no longer than the period from 1 March 2020 to the 30 September 2020, with the revenues of the same period in 2019. Furthermore, the loan amount will be capped at either the double of the annual wage bill, liquidity needs for upcoming 18 months[12] or 25% of the annual revenue.

- The revenue loss must reduce any payments from private insurance or, other public support schemes.

- Any overcompensation must be paid back to the Danish Authorities. ("Claw back").

- The mobilisation of the guarantee is contractually linked to specific conditions agreed between the parties when the guarantee is initially granted.

2.8. Cumulation

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

(26) The Danish 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 eligible companies will be able to use only one of the Danish schemes for SMEs for a given loss. The Danish authorities confirmed that the notified guarantee scheme will comply with the maximum loan amounts as specified in the present notification (recital (24)) and that they will check whether an eligible SME is not surpassing the maximum loan amounts, also taking into account any other loans benefitting from guarantees granted under schemes approved under the Temporary Framework.

2.9. Monitoring and reporting

(27) The Danish authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (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 ten years upon granting of the aid, etc.). In particular, those authorities will provide

[12] With appropriate justification and based on a self-certification by the beneficiary of its liquidity needs in line with point 25(d)(iii) of the Temporary Framework.

information demonstrating that none of the beneficiaries were companies 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) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(30) The measure is imputable to the State, since it is administered by the State owned EKF. It is based on the Danish government's Budget Law Act on EKF Liquidity Guarantee. The measure is financed through State resources, since it is financed by public funds.

(31) The measure confers an advantage on its beneficiaries in the form of non market conform guarantees on loans. The measure thus relieves those beneficiaries of costs, which they would have had to bear under normal market conditions.

(32) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. SMEs registered in Denmark.

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

(34) In view of the above, the Commission concludes 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) Since the measure involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is 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 mitigating liquidity challenges and facilitating the access of firms to external finance at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and 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 mitigate SMEs' liquidity challenges 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.

(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, applied progressively from 25 to 100 bps for the scheme's only beneficiaries, SMEs, on loans with a maturity of up to six years (recitals (20) to (21)). It therefore complies with the guidance in point 25(a) of the Temporary Framework.

- Guarantees can be granted under the measure by 31 December 2020 at the latest (recital (14)). The measure therefore complies with point 25(c) of the Temporary Framework.

- For all loans, the maximum loan amount per beneficiary covered by guarantees granted under the measure is limited in line with point 25(d) of the Temporary Framework (recital (24)).

- The measure limits the duration of the guarantees to a maximum of six years (recital (21)). Those guarantees cover 80% of the loan principal and losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (21)). The measure therefore complies with point 25(f)(iii) of the Temporary Framework.

- Guarantees granted under the measure relate to working capital loans (recital (9)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Firms in difficulty (situation as of 31 December 2019) within the meaning of the GBER, ABER and FIBER are excluded from benefitting from the measure (recital (16)(16). The measure therefore complies with point 25(h) of the Temporary Framework.

- 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. In view of the commercial banks' relatively high exposure on the loans, they have an incentive to offer those on the most favourable conditions possible to avoid the undertaking defaulting, since that would entail substantial losses to the commercial bank, both on the new credit and any non-guaranteed, older credits granted earlier to the defaulting undertaking. Such safeguards ensure that the commercial banks, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (22)). The measure therefore complies with points 29 to 31 of the Temporary Framework.

- The Danish authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (27)).

- The cumulation rules regarding combination with aid for other purposes are respected (recitals (25) to (26)) in line with point 20 of the Temporary Framework.

- Lastly, 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 (recital (24)).

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

(41) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"BRRD"**)[13] 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.

(42) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with 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.[14] Nevertheless, any such indirect aid granted under the measure does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of the measure 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, aid granted under the measure does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD.

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

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

(43) Moreover, as indicated in recital (22) above, the measure introduces safeguards in relation to any 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 extent possible, pass on the advantages provided by the measure to the final beneficiaries.

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

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