EUROPEAN COMMISSION

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PUBLIC VERSION

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Subject: State Aid SA.56843 (2020/N) – Malta COVID-19: Loan guarantee scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 1 April 2020, Malta notified aid in the form of a loan guarantee scheme ("the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework").[1]

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

(3) Malta exceptionally agrees 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, (OJ C 91I, 20.3.2020, p. 1–9).

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

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2. DESCRIPTION OF THE MEASURE

(4) Malta considers that the COVID-19 outbreak has started to affect the real economy. The main economic sectors that drive the Maltese economy are at a standstill, such as all tourist-related activities, restaurants, the wholesale and retail sector, the cultural, the entertainment and recreation sectors. The measure aims to ensure that sufficient liquidity remains available in the market and to preserve the continuity of economic activity during and after the outbreak.

(5) The measure is expressly based on Article 107(3)(b) TFEU, as interpreted by Section 2 of the Temporary Framework.

2.1. The nature and form of aid

(6) The measure provides aid in the form of guarantees on loans.

2.2. National legal basis

(7) The measure will be implemented in line with Article 6 of the Malta Development Bank Act[3].

2.3. Administration of the measure

(8) The Maltese Development Bank ("MDB") is responsible for administering the measure. MDB will enter into risk sharing agreements and service legal agreements with commercial banks in relation to the measure.

2.4. Budget and duration of the measure

(9) The budget of the measure is EUR 350 million. Malta will provide guarantees to banks for new working capital loans up to an estimated overall loan portfolio of EUR 777.8 million.

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

2.5. Beneficiaries

(11) The final beneficiaries of the measure are undertakings established and operating in Malta. Malta estimates that around 1850 undertakings will apply for new working capital loans under the measure. Aid may be granted under the measure only to undertakings that were not in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[4], the Agricultural Block Exemption

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[3] Chapter 547 of the laws of Malta, Maltese Development Bank Act, An act to make provision for the establishment of the Malta Development Bank and the determination of its functions and powers and to provide for matters ancillary or incidental thereto, as available on: http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12662&l=1

[4] 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.

Regulation ("ABER")[5] and the Fisheries Block Exemption Regulation ("FIBER")[6] on 31 December 2019. Aid is granted under the measure through commercial banks as financial intermediaries. All commercial banks have, in principle, access to the measure.

2.6. Sectoral and regional scope of the measure

(12) The measure is open to all sectors and activities of the economy, with the exception of any illegal activity, the production and trade of weapons and ammunition, pornography and prostitution, nuclear energy, electronic data programs that support any activities mentioned in this recital or to illegally download data or enter into data networks, support related to human cloning or genetically modified organisms, or activities involving live animals for scientific or research purposes. It applies to the whole territory of Malta.

2.7. Basic elements of the measure

(13) The measure will operate under the following conditions

(a) Guarantees will be granted until 31 December 2020.

(b) Guarantees will be provided in relation to new working capital loans.

(c) All guarantees shall be contractually subject to the conditions specified in a risk sharing agreement which sets out the legal conditions related to the mobilisation of the guarantee. The risk sharing agreement will be signed by the MDB and each of the commercial banks.

(d) The maximum coverage of guarantee is 90%. Losses are sustained proportionally, but the guarantee shall not cover losses higher than 50% of the portfolio volume of each individual bank. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally.

(e) The amount of the loan per undertaking shall not exceed EUR 4 million for small and medium-sized enterprises ("SMEs")[7] and EUR 8 million for large enterprises. In any event, the amount of loans per undertaking shall not exceed one of the following:

– double 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

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5 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.

6 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.

7 Within the meaning of Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises; OJ L 124, 20.5.2003, p. 36.

– 25 percent of the total turnover of the beneficiary in 2019; or

– with appropriate justification and based on self-certification by the beneficiary of its liquidity needs, the amount of the loan may be increased to cover the liquidity needs from the moment of granting for the coming 18 months for SMEs and for the coming 12 months for large enterprises.

(f) The duration of the guarantee will match that of the loans and is limited to a maximum of six years. The majority of new working capital loans will be limited to a minimum of 18 months and a maximum of four years.

(g) The guarantee shall be remunerated on the basis of a flat annual premium for loans to SMEs with a maturity of maximum four years. For other guarantees, the guarantee fees shall be progressive in time and step up each year for the outstanding amount until the final maturity of the underlying credit operation in order to incentivise early repayment.

(h) Malta notified guarantee premiums pursuant to point 25(b) of the Temporary Framework, whereby Member States may notify schemes, considering the table in point 25(a) as a basis, but with the possibility to modulate the duration, pricing and guarantee coverage. Since the underlying loans shall have, in most cases, a shorter maturity than the maximum maturity included in point 25(f) of the Temporary Framework, Malta notified specific minimum guarantee premiums for loans with a maximum maturity of four years. Those premiums are lower than those in the table provided in point 25(a) of the Temporary Framework. They are set out in Table 1 below.

Table 1: guarantee premiums for loans with a maximum maturity of four years and for loans with a longer maturity of up to six years

	Type of beneficiary	For 1st year	For 2nd - 3rd year	For 4th year	For 5th -6th year
Guarantees ≤ 4 years	SMEs	15bps	15bps	15bps	Not applicable
	Large enterprises	25bps	75bps	150bps	Not applicable
Guarantees 5-6 years	SMEs	25bps	50bps	100bps	100bps
	Large enterprises	50bps	100bps	200bps	200bps

(i) The obligation to pass on the benefits of the guarantee is set out in the risk sharing agreements with the commercial banks. Banks shall give an interest rate reduction to beneficiaries of at least one percentage point on the average lending rate as compared to similar facilities prior to the introduction of the guarantee scheme. Through a reporting and monitoring structure, the MDB will monitor that that benefit is passed on to the final beneficiaries. In addition, the amount of additional collateral that can be taken by the commercial banks for the new working capital loans will be maximum 20% of the loan amount of the portfolio of new loans. The Maltese authorities consider that this low collateral requirement would also help to pass on the benefit of the guarantee to the final beneficiaries[8].

2.8. Cumulation

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

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

2.9. Monitoring and reporting

(16) The Maltese 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 10 years upon granting of the aid, etc.).

3. ASSESSMENT

3.1. Legality of the measure

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

3.2. Existence of State aid

(18) 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.

(19) The measure is imputable to the State, since it is administered by the MDB. It is financed through State resources, since it is financed by public funds.

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

(21) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings established and operating in Malta that do not conduct activities in the excluded sectors listed in recital (12).

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8 In addition, the term sheet of the guarantee includes, in general terms, that the benefit should be passed on in terms of a riskier portfolio and a higher volume of financing.

(22) 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.

(23) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Maltese authorities do not contest that conclusion.

3.3. Compatibility

(24) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(25) 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*".

(26) 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*".

(27) The measure aims at 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.

(28) The measure is one of a series of measures conceived at national level by the Maltese authorities to remedy a serious disturbance in their economy. The importance of the measure 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 Maltese 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.

(29) 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 the fees described in recital (13)(h). In the Temporary Framework, the Commission accepts that the aid in guarantees with a duration of six years is proportionate to the distortion of competition when the guarantee bears the premiums set out in point 25(a).

Pursuant to point 25(b) of the Temporary Framework, Malta modulated the premiums set out in point 25(a) for loans with a maturity of up to four years, taking into account the shorter maturity of the loans compared to the maximum of six years allowed under point 25(f). The Commission considers that a shorter duration of the guarantees allows for a lower premium for the following reasons. In the case of a guarantee of up to four years, the loan recipient will not benefit from either the guarantee or the reduced interest rate obtained as a result of the guarantee on their loans in years 5 and 6, in comparison with a loan recipient who received a guarantee on a loan for the six years allowed under point 25(f). A shorter maturity of the guaranteed loan will thus entail a reduced advantage for the recipient of the guaranteed loan in comparison to a loan of six years. A reduced premium for guarantees of shorter duration also reflects the incentive to repay the aided loan as soon as possible (similarly expressed in the approach of a premium increasing over time, as provided by point 25(a)). To determine the discount on the guarantee fee taking into account this shorter duration, the Commission determined a market pricing for a guarantee of a six years loan, determined the level of advantage per year in comparison to that market pricing, and then compared the level of aid for a guarantee of six years and a guarantee of four years or less. On the basis of that comparison, the Commission concludes that the premiums put forward by Malta for a guarantee of up to four years are proportionate to the reduced advantage in comparison with the minimum premiums set out in point 25(a) for a guarantee of six years. The aid included in such a guarantee of up to four years can therefore be considered proportionate. The remuneration of the guarantees under the measure thus complies with point 25(a) and (b) of the Temporary Framework.

- Guarantees can be granted under the measure by 31 December 2020 at the latest (recital (13)(a)). The measure therefore complies with point 25(c) of the Temporary Framework.

- 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 (13)(e)).

- The measure limits the duration of the guarantees to a maximum of six years (recital (13)(f)). Those guarantees cover only 90% of the loan principal (recital (13)(d)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally. The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to new working capital loans (recital (13)(b)). 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 (11)). 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 commercial banks to limit undue distortions to competition. More specifically, the Commission takes into account the fact that all commercial banks have, in principle, access to the guarantee scheme, creating competition between the banks. In addition, the Commission observes that the interest rates applied by the banks to the new loans operations will have to be lower than those applied for similar facilities prior to the introduction of the measure, thus minimising possible benefits retained by the financial intermediaries (recital (13)(i)). In particular, the banks will have to demonstrate that the interest rates are at least one percentage point lower. Finally, the banks can only require a maximum of 20% of collateral for the overall portfolio of new working capital loans: this also ensures that the commercial banks pass on the advantage to the final beneficiaries, as reflected in point 31 of the Temporary Framework. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. The measure therefore complies with points 21 to 31 of the Temporary Framework.

- The Maltese authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (16)).

- The applicable cumulation rules are respected (recital (15)).

- 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 (13)(c)).

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

(30) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution ("BRRD")[9] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism ("SRMR"),[10] 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 and of SRMR.

(31) 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.[11] 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

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

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

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

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 and Art. 3(1) No 29 SRMR.

(32) Moreover, as indicated in recital (13)(i) 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.

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

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
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