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Subject: State Aid SA.56957 (2020/N) – Croatia
COVID-19: Interest free loans scheme and subsidised loans scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 6 April 2020, Croatia notified a measure in the form of an interest-free loans scheme and subsidised interest rate loans scheme for companies affected by COVID-19 that will be provided under S*tate aid scheme from Croatian Bank for Reconstruction and Development* ("the Measures") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework")[1]. The Croatian authorities provided additional information on 7 April 2020.

(2) The Croatian authorities confirm that the notification does not contain confidential information.

(3) Croatia exceptionally agrees to waive its rights deriving from Article 342 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, as amended on 3 April 2020 (OJ C 112I, 4.4.2020, 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 MEASURES

(4) Croatia 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 COVID-19 outbreak and to preserve the continuity of economic activity during and after the outbreak.

(5) According to the Croatian authorities, as a consequence of the COVID-19 outbreak, the Croatian economy is seriously affected. The crisis has already led to serious liquidity challenges for Croatia's most important sectors. Many companies operating in Croatia already face liquidity problems and a credit squeeze, unless granted new operating credits. Most of the economy will suffer significant losses due to temporary closing of businesses, cancelation of orders and contracts, wage costs, combined with missed income.

(6) To address the consequences of the current crisis, the Croatian authorities have envisaged an interest-free loan scheme and a subsidised loan scheme. Among other measures, those schemes are put in place in order to limit the damage to the economy, caused also by the liquidity difficulties experienced by the companies operating in Croatia. The schemes would enable the Croatian Bank for Reconstruction and development and other banks to finance the liquidity needs of companies that are experiencing the consequences related to the COVID-19 outbreak.

(7) The measures are 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.

2.1. The nature and form of the measure

(8) The Croatian government wants to introduce an interest-free loan scheme ("Measure A") and a subsidised loan scheme ("Measure B"), to provide liquidity to companies which have realised or expect to realise losses as a consequence of the developments related to the COVID-19 crisis. For Measure B, Croatian Bank for Reconstruction and development will directly lend to the beneficiaries, but will also do on-lending[3] and risk sharing[4] with commercial banks.

(9) The measures provide support in the form of interest-free loans or subsidised interest rate for new liquidity loans, in order to enhance access to working capital to those undertakings that are most severely affected by the crisis, thereby allowing otherwise healthy businesses to continue their operations.

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[3] On-lending assumes HBOR provides cheap loans to the commercial banks on the condition that commercial banks pass on the advantage to the end beneficiary (the preferential interest rate that the final user is charged is capped by HBOR).

[4] Risk sharing is here defined as HBOR's participation in granting one part of the loan together with the credit institution granting the other part of the loan, in defined proportions. Thereby the credit institution charges their commercial interest rate on their part of the loan because their funding comes from commercial sources, whereas HBOR charges subsidised interest rate on their part of the loan. Hence, the end user pays the so-called blended interest rate. The blended interest rate has to be at least equal to the interest rate from point 27 a) of the Temporary Framework.

2.2. National legal basis

(10) The legal bases for the measure are the Act on Croatian Bank for Reconstruction and Development (*Zakon o Hrvatskoj banci za obnovu i razvitak)* and State Aid Act (*Zakon o drzavnim potporama*).

2.3. Administration of the measure

(11) The state-owned development bank “Hrvatska banka za obnovu i razvitak” (Croatian Bank for Reconstruction and Development, hereinafter referred to as “HBOR”) will administer the measure on behalf of and for the account of the Republic of Croatia. The measures will be granted either exclusively directly (Measure A) or through both HBOR and credit institutions and other financial institutions as financial intermediaries (Measure B).

(12) The subsidised loans measure will be open to HBOR and all banks in the Republic of Croatia that operate in accordance with the Croatian Act on Credit Institutions.

2.4. Budget and duration of the measures

(13) As confirmed by the Croatian authorities, the initial budget estimate and duration of the measures is as follows:

- For Measure A: The maximum overall budget is estimated at EUR 150 million. The interest-free loans can be granted as from the date of the approval of the measure by the Commission until 31 December 2020.

- For Measure B: The maximum overall budget is estimated at EUR 850 million. The loans with subsidised interest rate can be granted from the date of the approval of the measure by the Commission until 31 December 2020 and are limited to maximum six years, including a possible grace period.

2.5. Beneficiaries

(14) The final beneficiaries of the measures are undertakings registered in Croatia, irrespective of their size, that need liquidity for their activities to overcome difficulties related to the COVID-19 outbreak as described in recitals (8) and (9).

(15) Support under the measures may not be granted to undertakings that were already in difficulty within the meaning of the GBER, ABER and FIBER[5] on 31 December 2019.

[5] 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, Article 2(14) of the 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 the 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.

2.6. Sectoral and regional scope of the measures

(16) The measures apply to the whole territory of Croatia and are open to all sectors and all companies, with the exception of those sectors that are typically excluded from financing in line with the HBOR's policy (casinos, gambling premises and similar activities; manufacture -except for primary agriculture- and processing and distribution of tobacco and tobacco products; activities which have adverse environmental impacts that are not largely mitigated or compensated; activities constituting pure financial activities or projects in the sector of real estate performed as financial investment activity; investments or parts of investments that serve for personal purposes; purchase of immovable or movable property from related entities; investment in immovable property not owned by the borrower; capital investment in trade activities of large entrepreneurs; investment in apartments or rooms to let; notarial activity; publishing of newspapers or other periodicals, production and broadcasting of radio and television programmes, news agency activities, advertising and public relations agency activities; refinancing of existing loans in case of capital investments; and all bans and restrictions pursuant to the contracts between HBOR and relevant financial institutions if such contracts apply in the respective cases.)

2.7. Basic elements of the measures

2.7.1. Measure A

(17) The measure will be provided in the form of interest-free loans, with the following conditions:

(a) The total nominal value of the loan granted under the measure will not exceed EUR 800 000 per undertaking,

(b) As explained in recital (13), the Croatian authorities estimate that the overall budget for the loans granted in the form of interest-free loans will not exceed EUR 150 million;

(c) Under the measure, aid will be granted no later than 31 December 2020;

(d) The derogations in paragraph 23(a) of the Temporary Framework Communication will apply and the gross amount of aid before any deduction of tax or other charge will not exceed EUR 120 000 per undertaking active in the agricultural, fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products;

(e) Additionally, for agricultural, fishery and aquaculture sector[6], with the following conditions:

– aid to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the

[6] As defined in Article 2(1) of Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector, OJ L 190, 28.6.2014, p. 45.

price or quantity of products purchased from primary producers or put on the market by the undertakings concerned;

– where an undertaking is active in several sectors to which different maximum amounts apply, the Croatian authorities will ensure by appropriate means (such as separation of accounts), that for each of these activities the relevant ceiling is respected.

(f) Loans may be given to undertakings that were not in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.

2.7.2. Measure B

(18) Aid in the form of subsidised interest rates on loans, with the following conditions:

(a) Loans may 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[7]) applicable on 1 January 2020 plus the credit risk margins set out in the table in paragraph 27(a) of the Temporary Framework as follows:

Type of recipient	Credit risk margin for 1st year	Credit risk margin for 2nd-3rd year	Credit risk margin for 4th-6th year
SMEs	0,25%	0,50%	1,00%
Large enterprises	0,50%	1,00%	2,00%

(b) The minimum all-in interest rate (base rate plus the credit risk margins) will be at least 10bps per year;

(c) The measure does not allow any of the modulations provided for in point 27 (b) of the Temporary Framework;

(d) Loan contracts will be signed by 31 December 2020 at the latest and are limited to maximum 6 years (potential grace period of one year included);

(e) Loans under the measure may relate only to new liquidity loans;

In general, the loan principal amount must not exceed EUR 50 million. For loans with a maturity until 31 December 2020, the overall amount of the loan per beneficiary shall not exceed the limits set out in paragraph 27(d) of the Temporary Framework. For loans with a maturity beyond 31 December 2020, the overall amount of the loan per beneficiary will also respect the limits set out in paragraph 27(d) of the Temporary Framework,

[7] 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.) and published on the website of DG Competition at https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html.

meaning that in any event the overall amount of the loans per beneficiary shall not exceed:

- 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 must not exceed the estimated annual wage bill for the first two years in operation; or

- 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.[8]

(f) Loans may be granted to undertakings that were not in difficulty (within the meaning of the General Block Exemption Regulation) on 31 December 2019.

2.8. Cumulation

(19) 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.

(20) The Croatian authorities will ensure that cumulation conditions are respected across all Croatian measures under the Temporary Framework. The Croatian authorities confirmed that aid under section 3.2 and section 3.3 of the Temporary Framework must not be cumulated if the aid is granted for the same underlying loan and the overall aided loan amount per undertaking exceeds the thresholds set out in point 25 d) or 27 d) of the Temporary Framework. In as far as one and the same beneficiary may benefit from multiple measures under the Temporary Framework in parallel, the Croatian authorities confirm that it is ensured that the maximum thresholds concerning overall amount of loans per beneficiary as specified in points 25(d) and 27(d) of the Temporary Framework are respected.

2.9. Monitoring and reporting

(21) The Croatian 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). In particular, information will be obtained demonstrating that the beneficiaries were not already undertakings in difficulty on 31 December 2019.

8 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.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(23) 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.

(24) The measures are imputable to the State, since they are administered by the state owned development bank HBOR and are based on the HBOR Act, according to which HBOR performs activities on behalf and for account of the Republic of Croatia (recitals (10), (11)). The measures involve State resources, since they financed by HBOR funds, that is, from the State budget (recital (11)).

(25) The measures confer an advantage on their beneficiaries in the form of interest-free loans and subsidised interest rates on loans (recitals (6), (8), (9)). The measures thus relieve the beneficiaries of costs that they would have to bear under normal market conditions.

(26) The advantage granted by the measures is selective, since it is awarded only to certain undertakings registered in Croatia (recital (14)), with the exception of the sectors indicated in recital (16) above.

(27) The measures are liable to distort competition, since they strengthen the competitive position of their beneficiaries. They also affect trade between Member States, since the beneficiaries are active in sectors in which intra-Union trade exists.

(28) In view of the above, the Commission concludes that the measures constitute aid within the meaning of Article 107(1) TFEU. The Croatian authorities do not contest that conclusion.

3.3. Compatibility

(29) Since the measures involve aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measures are compatible with the internal market.

(30) 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*".

(31) 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".

(32) The measures aim at facilitating the access of companies to liquidity 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.

(33) The measures form part of a series of measures conceived at national level by the Croatian authorities to remedy a serious disturbance in their economy. The importance of the measures to mitigate the liquidity challenges for the companies concerned is widely accepted by economic commentators and the measures are of a scale which can be reasonably anticipated to produce effects across the entire Croatian economy. Furthermore, the measures have been designed to meet the requirements of the specific categories of aid ("*Aid in form of direct grants ,repayable advances or tax advantages* " and "*Aid in the form of subsidised interest rates for loans*") described in sections 3.1 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.

(34) 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:

(35) For Measure A (interest-free loans):

- The maximum aid amount per undertaking in the notified scheme, with the exception of undertakings in the fishery and aquaculture sector and active in the primary production of agriculture products, will not exceed EUR 800 000 as laid down in point 22(a) of the Temporary Framework;

- The measure is granted on the basis of an aid scheme with an estimated budget of approximately EUR 150 million, hence the condition set out in point 22(b) of the Temporary Framework is met;

- The measure will only be granted to undertakings which were not in difficulty on 31 December 2019; the measure therefore complies with point 22(c) of the Temporary Framework;

- The measure will be granted no later than 31 December 2020, hence the measure complies with point 22(d) of the Temporary Framework;

- The measure granted to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the SMEs concerned, hence the measure complies with point 22(e) of the Temporary Framework;

- The maximum aid does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products as laid down in point 23(a) of the Temporary Framework;

- Aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market, hence the measure complies with point 23(b) of the Temporary Framework;

- Aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014, hence the measure complies with point 23(c) of the Temporary Framework;

- Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Croatia committed to ensure, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected; hence the condition set out in point 23(d) of the Temporary Framework is met;

(36) For Measure B (subsidised interest rates for loans):

- The applicable interest rates are established in accordance with point 27(a) of the Temporary Framework (recital (18) above).[9]

- As indicated in the same recital, the loan contracts are signed by 31 December 2020 at the latest in conformity with point 27(c) of the Temporary Framework and are limited to maximum maturity of six years.

- Also in the same recital, the maximum loan amount per beneficiary is limited in line with point 27(d) of the Temporary Framework.

- Also in the same recital, the loans relate to working capital needs in conformity with point 27(f) of the Temporary Framework.

- Also in the same recital, firms already in difficulty on 31 December 2019 within the meaning of GBER, ABER and FIBER are excluded from benefitting from the measure (recital (15)). Measure B therefore complies with point 27(g) of the Temporary Framework.

(37) The Commission also considers that the Measure B 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[10]. 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

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9 See the provision on blended interest rates in the footnote 4.

10 This recital is not relevant for the subsidised loans directly granted by HBOR.

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 Commission takes into account that the measures relate to new loans and that all commercial credit institutions have, in principle, access to the measure, thus creating competition between those institutions. This will ensure that beneficiaries can compare offers of different commercial credit institutions and, thus, that the advantage provided by the measure is passed on to the final beneficiary.

- *Second*, the measure implies that financial intermediaries share risk with HBOR or perform on-lending thereby also remaining exposed to credit risk. The eligible undertakings are in a situation of financial distress with reduced 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 financing rates* possible to avoid the undertaking from defaulting, as that would entail substantial losses to the intermediaries.

- *Third*, as the risk-sharing mechanism allows final beneficiaries to obtain higher loan amounts than potentially available on the market, they obtain the advantage of higher volumes as well.

- *Fourth*, in case of on-lending, the final beneficiaries obtain the interest rate which is capped at preferential levels by HBOR.

- *Finally*, the financial intermediary ensures liquidity to an undertaking in a situation of financial distress. The loans are therefore granted to *riskier portfolios*, ensuring that the final beneficiary is passed on the advantage.

(38) Furthermore, the Croatian authorities confirmed that the applicable cumulation rules will be complied with.

(39) Finally, as indicated in recital (21) above, the Croatian authorities confirmed that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected.

(40) 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

(41) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution ("BRRD")[11] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism ("SRMR"),[12] in the event that an institution benefiting from the measures meets the condition for the application of that

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

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

Directive or of that Regulation, the Commission notes that the measures do not appear to violate intrinsically linked provisions of BRRD and of SRMR.

(42) 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.[13] 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.

(43) Moreover, as indicated in recital (37) 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.

(44) The Commission therefore concludes that the measures do not appear to violate any intrinsically linked provisions of 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
EUROPEAN COMMISSION

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