EUROPEAN COMMISSION

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Subject: State Aid SA.56877 (2020/N) – Croatia
Portfolio insurance of liquidity loans for exporters 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 31 March 2020, Croatia notified a measure in the form of a liquidity guarantee scheme for exporting enterprises affected by COVID-19 (*Program osiguranja portfelja kredita za likvidnost izvoznika - COVID-19 Mjera Republike Hrvatske pomoći gospodarstvu*, "the measure") 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 the insurance premiums on 2 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 MEASURE

(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 which is already felt on different levels is causing serious liquidity challenges for the Croatian exporters due to delays, problems and cancellations in their supply chains, as well as disappearing and closing export markets.

(6) In that respect, the Croatian authorities wish to introduce an insurance scheme in order to limit the risks associated with granting liquidity loans to exporting companies operating in Croatia. The scheme would enable banks to finance the liquidity needs of exporters, while limiting their own risk.

(7) 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")[3], the Block Exemption Regulation for the Agricultural Sector ("ABER")[4] and the Block Exemption Regulation for the Fishery and Aquaculture Sector ("FIBER")[5], but it guarantees loan losses of banks to undertakings that also do exports (see below recital (10)).

(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.

2.1. The nature and form of the measure

(9) The Croatian government wants to introduce a guarantee scheme for liquidity loans to companies of which export revenues represent at least 20% of their total annual revenues and which have realised or expect to realise a revenue loss as a consequence of the developments related to the COVID-19 crisis.

(10) The measure provides support in the form of new loan guarantees in order to limit the risks for the banks associated with granting new operating loans to those

[3] 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.

[4] 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.

[5] 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.

undertakings that are most severely affected by the crisis, thereby allowing otherwise healthy businesses to continue their operations.

2.2. National legal basis

(11) The legal basis for the measure is the HBOR Act and the Regulation on Export credit insurance (*Zakon o Hrvatskoj banci za obnovu i razvitak* and *Uredba o osiguranju izvoza*).

2.3. Administration of the measure

(12) The Croatian Bank for Reconstruction and Development (HBOR) will administer the measure on behalf and for account of the Republic of Croatia.

2.4. Budget and duration of the measure

(13) As confirmed by the Croatian authorities, the initial budget estimate to cover potential losses under the measure is HRK 3000 million (approximately EUR 393 million[6]).

(14) Guarantees under the measure may be granted as from the date of the approval of the scheme by the Commission until 31 December 2020.

2.5. Beneficiaries

(15) The final beneficiaries of the measure are exporting undertakings in Croatia that need liquidity for their activities to overcome difficulties related to the COVID-19 outbreak as described in recitals (9) and (10). Undertakings with export revenues of at least 20% of their total annual revenues are considered to be exporting undertakings. The beneficiaries shall not be majority State owned.

(16) Support under the measure can only be granted to undertakings which were not in difficulty within the meaning of the GBER, ABER and FIBER[7] 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 difficulties or entered into difficulty thereafter because of the COVID-19 outbreak.

(17) Support to final beneficiaries will be granted through banks which will act as financial intermediaries. The measure will be open to all banks in the Republic of Croatia that operate in accordance with the Croatian Act on Credit Institutions and HBOR as a creditor.

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6 Using the foreign exchange rate as of 02/04/2020.

7 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 measure

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

2.7. Basic elements of the measure

(19) The measure will be provided in the form of insurance (i.e. a State guarantee) on new working capital loans to the aid beneficiaries and will cover 50% of the loan principal and the regular contractual interest.

(20) The scheme will be operated by HBOR in cooperation with the commercial banks. The banks will be in charge of the credit assessments but they will benefit from a guarantee from the Croatian State – administered by HBOR - covering up to 50% of the losses. HBOR and the commercial banks will share loans losses by means of risk sharing per tranche. In this set-up, the commercial banks will keep strong incentives to dilligently assess the loan amount and the loan quality.

(21) The overall amount of loans per beneficiary shall not exceed either the double of the annual wage bill or the upcoming liquidity needs (18 months for SMEs or 12 months for large enterprises).[8]

(22) The Croatian authorities submit that the guaranteed loans might have a grace period of up to one year, bringing the total duration of a loan to a maximum of six years.

(23) Croatia 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 granted guarantees shall provide a lower coverage than the maximum coverage included in point 25(f) of the Temporary Framework, Croatia notified specific minimum guarantee premiums for loans with a maximum coverage of 50%. Those premiums are lower than those in the table provided in point 25(a) of the Temporary Framework.

The guarantee premium will be defined according to the size of each beneficiary and will increase progressively with the maturity of the loan. For SMEs, the annual premium will be 15 basis points of the guaranteed amount for the first maturity year of the loan, 25 basis points for the 2nd and 3rd year of the loan, and 50 basis points for year 4 to 6 of the loan.

For other companies, the annual premium is equal to 25 basis points for the first maturity year of the loan, 50 basis points for the 2nd and 3rd year, and 125 basis points for year 4 to 6.

The insurance premium will be calculated and charged one-off for the entire lifetime of the loan.

[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.

Size of the exporter	Annual premium rate as a % of the guaranteed amount for 50% coverage for 1st year loan maturity	Annual premium rate as a % of the guaranteed amount for 50% coverage for 2nd and 3rd year loan maturity	Annual premium rate as a % of the guaranteed amount for 50% coverage for 4th to 6th year loan maturity
SMEs	0,15%	0,25%	0,5%
Large	0,25%	0,50%	1,25%

(24) The duration of the guarantee is set to a maximum of six years. 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 banks are covering 50% of the loan risk, and since the guarantee only covers new loans, the banks will have, according to the Croatian authorities, a strong incentive to ensure that maturities are not longer than necessary.

(25) Moreover, considering the banks' relatively high exposure on the guaranteed loans, the 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, on any non-guaranteed, older credits granted earlier to the defaulting undertaking. According to the Croatian authorities, this ensures that the aid will be passed on to the final beneficiaries.

(26) The mobilisation of the guarantee is contractually linked to specific conditions of non-payment which have to be agreed between the parties when the guarantee is initially granted.

2.8. Cumulation

(27) 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.

(28) The Croatian 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.

2.9. Monitoring and reporting

(29) 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, etc.).

3. ASSESSMENT

3.1. Legality of the measure

(30) 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

(31) 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.

(32) The measure is imputable to the State, since it is administered by the State owned company HBOR and is based on the HBOR Act, according to which HBOR performs export credit insurance activities on behalf and for account of the Republic of Croatia. The measure is financed through State resources, since it is financed by public funds.

(33) 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.

(34) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, more precisely to eligible exporting undertakings.

(35) 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 – i.e. exporting undertakings – are active in sectors in which intra-Union trade exists.

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

3.3. Compatibility

(37) 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.

(38) 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*".

(39) 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".

(40) The measure aims 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.

(41) The measure is one 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 measure to mitigate the liquidity challenges for the companies concerned is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Croatian 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.

(42) 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 guarantee fee structure is described in recital (23). In the Temporary Framework, the Commission accepts that guarantee aid with a duration of six years is proportionate to the distortion of competition when the guarantee is remunerated by the premiums set out in point 25(a). Pursuant to point 25(b) of the Temporary Framework, Croatia modulated the premiums set out in point 25(a) for the coverage of loans up to 50%, taking into account the lower coverage of the loans compared to the maximum of 90% allowed under point 25(f). The Commission considers that a lower coverage of the guarantees allows for a lower premium for the following reasons..The higher remaining exposure for banks (50% instead of 10% under the Temporary Framework) implies indeed that banks will probably indeed be stricter both in terms of pricing but also in terms of e.g. loan quality. On the basis of that comparison, the Commission concludes that the premiums put forward by Croatia for a guarantee coverage up to 50% are proportionate to the reduced advantage in comparison with the minimum premiums set out in point 25(a) for a guarantee of 90% of coverage. The aid included in such a guarantee of up to 50% of coverage can therefore be considered proportionate. The measure sets minimum levels for guarantee premiums applied progressively from 15 to 50 bps[9] for the SMEs and from 25 to 125 bps for larger companies on loans with a maturity of up to six years (recitals (23) and (24)). It therefore complies with the point 25(b) 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.

[9] Measured as a percentage of the guaranteed amount

- For all loans, the maximum loan amount per beneficiary covered by guarantees granted under the measure - and for other potential future measures under the Temporary Framework - is limited in line with point 25(d) of the Temporary Framework (recital (21)).

- The measure limits the duration of the guarantees to a maximum of six years (recital (24)). Those guarantees cover only 50% 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 (recitals (19) to (20)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (24)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to working capital loans (recital (19)). 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)). The measure therefore complies with point 25(h) of the Temporary Framework.

- The measure relates only to new loans and introduces safeguards in relation to the possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries (recital (25)). The measure therefore complies with points 29 to 31 of the Temporary Framework

- The Croatian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (recital (29)).

- The applicable cumulation rules are respected (recitals (27) to (28)) 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 (26).

4. Compliance with intrinsically linked provisions of Directive 2014/59/EU

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

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

(44) 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 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.

(45) Moreover, as indicated in recital (27) 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.

(46) 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

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