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Subject: State Aid SA.56914 (2020/N) – The Netherlands
COVID-19: GO-C Guarantee Scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 20 April 2020, the Netherlands notified aid in the form of guarantees on loans (GO-C[1] Guarantee Scheme, "the measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("the Temporary Framework").[2]

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

(3) The Netherlands 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,[3] and to have this Decision adopted and notified in English.

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[1] Garantie ondernemingsfinanciering uitbraak coronavirus.

[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 C 91I, 20.3.2020, p. 1-9; Communication from the Commission – Amendment to the Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 3 April 2020, OJ C 112I, 4.4.2020, p. 1–9.

[3] 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) The Netherlands considers that the COVID-19 outbreak is affecting 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 negative impact of the outbreak on undertakings 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 concerns a temporary scheme for State guarantees on individual new bank loans to large, medium-sized and small enterprises[4] to meet those undertakings' liquidity needs in the current COVID-19 outbreak.

2.2. National legal basis

(7) The legal basis of the measure consists of the *Garantie ondernemingsfinanciering uitbraak coronavirus*, *Regeling nationale EZK- en LNV-subsidies*, *Kaderwet EZK- en LNV-subsidies* and *Kaderbesluit nationale EZ-subsidies*.

2.3. Administration of the measure

(8) The Minister of Economic Affairs and Climate Policy is responsible for administering the measure.[5]

2.4. Budget and duration of the measure

(9) The Dutch authorities confirm that the maximum estimated budget under the measure amounts to EUR 10 billion.

(10) Aid may be granted as from the date of adoption of the present Decision until 31 December 2020.

2.5. Beneficiaries

(11) The final beneficiaries of the measure are all small, medium-sized and large enterprises that require liquidity as a result of the COVID-19 outbreak and which have a substantial part of their activities in the Netherlands.

[4] For the definition of a “small”, “medium-sized” and “large enterprise”, the Dutch authorities refer to 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 (“General Block Exemption Regulation”).

[5] The Netherlands Enterprise Agency (*Rijksdienst voor Ondernemend Nederland (RVO)*), which is a part of the Ministry of Economic Affairs and Climate Policy, is in charge of the implementation of the scheme.

(12) Aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[6] on 31 December 2019.

2.6. Sectoral and geographical scope of the measure

(13) The measure is open to all sectors (including the agriculture and fisheries sectors), with the exception of the commercial real estate sector, the financial sector (banks, insurance and investment firms), and the publicly-funded healthcare sector.

(14) The measure applies to the whole territory of the Netherlands. The measure also applies to undertakings located on Bonaire, Sint Eustatius or Saba.[7]

2.7. Basic elements of the measure

(15) The measure establishes a temporary scheme providing State guarantees on new individual bank loans to facilitate the access to liquidity of eligible beneficiaries (as described in Sections 2.5 and 2.6) and to enable them to continue to fulfil their payment obligations in the current COVID-19 outbreak. With due account of the conditions of the Temporary Framework, the Dutch authorities have sought to align the measure to the existing GO-scheme "Extended Growth Facility"[8], albeit with a number of distinct features.[9]

(16) Only non-subordinated loans for working capital or investment[10] purposes granted by banks may receive aid under the measure. In particular, in order to fulfil the "fresh money" requirement, existing loans and new loans used to refinance credits granted before 24 March 2020 are not eligible for the measure.

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6 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.

7 As the State aid rules do not apply to Overseas Countries and Territories, the effects of the measure in relation to those islands requires no further assessment.

8 State aid scheme SA.48350 (2017/N) – "Extended Growth Facility"- Dutch guarantee scheme for medium and large undertakings with a considerable growth potential, remains in force, but because according to the Dutch authorities this temporary GO-C scheme ('Garantie ondernemingsfinanciering uitbraak coronavirus'*)* is not self-financing, a notification is considered necessary.

9 The Dutch authorities acknowledge that the notified scheme, GO-C, offers advantages to Dutch SMEs and large enterprises in the form of high volumes of financing and certain collateral best-effort requirements, at a market-oriented pricing level.

10 Regarding loans for investment purposes, only loans to cover the costs related to investments which are necessary for the continued operation of an enterprise, or to cover the costs of investments for which the enterprise has already incurred obligations of which the fulfilment cannot be postponed, are eligible for the measure.

However, new loans that are used to refinance credits, which banks granted as of 24 March 2020 specifically to meet undertakings' urgent liquidity needs in relation to the COVID-19 outbreak, may receive aid under the measure.

(17) The guarantee covers 90% of the non-amortised part of loans to small and medium-sized enterprises and 80% of the non-amortised part of loans to large enterprises. Losses are sustained proportionally and under the same conditions by the credit institution granting the loan (i.e. 10% for loans to small and medium-sized enterprises, or 20% for loans to large enterprises) and by the State (i.e. 90% for loans to small and medium-sized enterprises, or 80% for loans to large enterprises). Loans under GO-C will rank first for new collateral and second for existing collateral of the bank.

(18) The guarantee has a maximum duration of six years.

(19) Furthermore, a minimum guarantee premium is set per individual loan which shall increase progressively as the duration of the guaranteed loan increases, as set out in the following table:

Type of beneficiary	**For 1st year**	**For 2nd-3rd year**	**For 4th-6th year**
SMEs	25 bps	50 bps	100 bps
Large enterprises	50 bps	100 bps	200 bps

(20) A credit institution is required to extend to borrowers a moratorium of at least six months on loan repayments before a loan granted by that credit institution will be eligible for the measure, except when this is not possible because the credit institution grants the loan together with other lenders under the same conditions and not all lenders agree with the extension of a moratorium. A credit institution is also required to make efforts to secure additional collateral, which is as high-ranking as possible, for loans granted under the scheme.

(21) The overall amount of loans per beneficiary shall not exceed:

(i) double the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertaking’s site but formally on the payroll of subcontractors) for 2019, or for the last available year. 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

(ii) 25% of the beneficiary’s total turnover in 2019; or

(iii) 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.

The Dutch authorities' justification for determining the maximum overall loan amount per beneficiary on the basis of a beneficiary's self-certification of liquidity needs (in accordance with point 25(d)(iii) of the Temporary Framework) is the need to have a measure in place which can – from an administrative viewpoint – be implemented in an efficient manner. The Dutch authorities expect a large number of applications, which will have to be dealt with in a short period of time, also in view of the nature of the current crisis in which companies relatively urgently need liquidity to overcome short-term cash problems.

The amount of the loan principal ranges from a minimum of EUR 1.5 million to a maximum of EUR 150 million per beneficiary, subject to the limits set out above under (i), (ii) and (iii).

(22) The triggering of the State guarantee by the credit institution depends on the fulfilment of certain specific conditions of non-payment by the beneficiary, to be included in the loan agreement between the credit institution and the beneficiary.

(23) The measure contains safeguards preventing credit institutions, to the largest extent possible, from benefiting of any indirect aid. In particular, a transparent pricing mechanism ensures that banks receive reasonable compensation[11] for the cost incurred in managing and funding the loan and that as a consequence they do not benefit of an indirect advantage. Moreover, credit and financial institutions must demonstrate that they increase their exposure to the beneficiary to ensure that the measure is not used by credit institutions to increase the quality of their existing portfolios but to support new liquidity needs.

2.8. Cumulation

(24) 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.

(25) Aid granted under Section 3.2 of the Temporary Framework shall not be cumulated with aid granted for the same underlying loan principal under Section 3.3 of the Temporary Framework and vice versa. A beneficiary may benefit in parallel from multiple measures under Section 3.2 provided the overall amount of loans per beneficiary does not exceed the thresholds set out in point 25(d) of the Temporary Framework.[12] Aid under the measure may be cumulated with other compatible aid and *de minimis* aid provided that the cumulation rules under the different *de minimis* Regulations are respected, or with other forms of Union financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemptions Regulations or other Union frameworks are respected.

2.9. Monitoring and reporting

(26) The Dutch authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (e.g., by

[11] This includes the following items: (i) 50 bps related to loan management costs; (ii) funding costs; (iii) a one-off commission of maximum 100 bps.

[12] The Dutch authorities also indicated that *"cumulation of aid which is prohibited on the basis of European State aid regulations, including therefore the Temporary Framework, is not allowed and will lead to a rejection of the grant."*

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

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

3.2. Existence of State aid

(28) 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.

(29) The measure is imputable to the State, since it is administered by RVO (Netherlands Enterprise Agency), which is a part of the Ministry of Economic Affairs and Climate Policy and is based on the Regulation on national EZK and LNV subsidies (see recitals (7) and (8)). It is financed through State resources.

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

(31) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, namely small and medium-sized or large enterprises that require liquidity as a result of the COVID-19 outbreak and that were not in difficulty on 31 December 2019. Moreover, undertakings that are active in the commercial real estate sector, financial sector and the publicly-funded healthcare sector (see recitals (11) – (14)) are excluded and thus cannot benefit from the measure.

(32) 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.

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

3.3. Compatibility

(34) 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.

(35) 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*".

(36) 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*".

(37) The measure aims at facilitating eligible undertakings' access to liquidity and stimulating new lending by banks to counter the negative impact of the COVID-19 outbreak on undertakings 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.

(38) The measure is one of a series of measures conceived at national level by the Dutch 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 economy of the Netherlands. 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.

(39) 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 of 25, 50 and 100 bps for SMEs and 50, 100 and 200 bps for large enterprises on loans with a maturity of 1, 2-3 and 4-6 years (see recital (19)). It therefore complies with point 25(a) of the Temporary Framework.

- Guarantees can be granted under the measure by 31 December 2020 at the latest (see recital (10)). 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 (see recital (20)). As explained in recital (21), the Dutch authorities have properly justified why they also want to make use of point 25(d)(iii) of the Temporary Framework. They have pointed at reasons of administrative simplicity and have underlined the need to deal swiftly with a large number of loan applications.

- The measure limits the duration of the guarantees to maximum 6 years (see recital (18)). Those guarantees do not exceed 90% of the loan principal where losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State (see recital (17)). Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (see recital (17)). The measure therefore complies with point 25(f) of the Temporary Framework.

- Guarantees granted under the measure relate to investment and working capital loans (see recital (16)). The measure therefore complies with point 25(g) of the Temporary Framework.

- Firms already in difficulty (situation as of 31 December 2019) within the meaning of the GBER are excluded from benefitting from the measure (see recital (12)). 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. Such safeguards ensure that these institutions, to the largest extent possible, pass on the advantages of the measure to the final beneficiaries. In particular, the Commission notes that the measure features a transparent pricing mechanism, and banks granting guaranteed loans are only entitled to a reasonable compensation for the costs stemming from granting those loans (e.g. loan management cost, funding cost). Moreover, banks must demonstrate that they increase their exposure to the beneficiary to ensure that the measure is not used by them to increase the quality of their existing portfolios but to support new liquidity needs (see recital (23)). They must also extend a loan repayment moratorium to borrowers for at least six months, with only limited and justified exceptions (see recital (20)). The measure therefore complies with points 28 and 31 of the Temporary Framework.

- The Dutch authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (see recital (26)).

- The applicable cumulation rules are respected (see recitals (24) and (25)).

- Lastly, the triggering of the guarantees is contractually linked to specific conditions, which have to be agreed between the parties when the guarantee is initially granted (see recital (22)).

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

(40) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (**"BRRD"**)[13] and of Regulation (EU) 806/2014 on the

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

Single Resolution Mechanism (**"SRMR"**),[14] 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.

(41) 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.[15] 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 and Art. 3(1) No 29 SRMR.

(42) Moreover, as indicated in recitals (23) and (39) (seventh bullet point) 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.

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

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

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

5. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION