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PUBLIC VERSION

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Subject: State Aid SA.57163 (2020/N) – Malta
COVID-19: Interest rate subsidy scheme administered by the Malta Development Bank

Excellency,

1. PROCEDURE

(1) By electronic notification of 27 April 2020, Malta notified an aid scheme comprising subsidised interest rates for loans ("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").[1]

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

(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

[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 by the 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 and by the Communication from the Commission – Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, 8 May 2020, OJ C 164, 13.5.2020, p. 3–15.

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Article 3 of Regulation 1/1958,[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(4) Malta 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 liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings, and thereby to preserve the continuity of economic activity during and after the outbreak.

(5) Indeed, Malta considers that the main economic sectors that drive the Maltese economy are currently at a standstill. This includes all tourist-related activities including hotels and other tourist accommodation, transportation and other services for tourists, cruise passenger traffic, restaurants, the wholesale and retail trades, the arts, entertainment and recreation sectors, the i-gaming sector, many manufacturing concerns and service providers. According to the Maltese authorities, as Malta has a small and open economy, dependent on foreign trade and tourism, the economic repercussions of the COVID-19 outbreak are disproportionately high.

(6) By Decision of 2 April 2020 in case SA.56843 (2020/N)[3], the Commission approved a COVID-19 Guarantee Scheme ("CGS") to be administered by the Malta Development Bank ("MDB"). The scheme provides State guarantees on loans which the Commission authorised under Section 3.2 of the Temporary Framework.

(7) The measure will enable MDB to grant additional aid in the form of an interest rate subsidy on the working capital loans approved by accredited commercial banks under the CGS. Through this new measure, part of the interest due by the borrower to its bank for the repayment of those loans will be funded by the Government of Malta, thereby reducing the burden on the borrower.

(8) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Section 3.1 of the Temporary Framework.

2.1. The nature and form of aid

(9) The measure provides aid in the form of grants. In particular, these grants are interest rate subsidies on the financial costs (interest payments) of working capital loans approved by accredited commercial banks under the CGS. The subsidy is limited to part of the interest costs on the initial two years of the loan. This interest rate subsidy is an additional measure to and shall be applied in conjunction with the CGS. It will apply automatically to all recipients of working capital loans approved by accredited commercial banks under the CGS.

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

[3] Commission Decision C(2020) 2180 final of 2.4.2020, State Aid SA.56843 – Malta COVID-19: Loan guarantee scheme.

2.2. Legal basis

(10) The legal basis of the measure is Article 6 of the Malta Development Bank Act[4]. The Maltese authorities also submitted the following documents to the Commission which are relevant to the measure:

a) An official letter, dated 16 April 2020 and signed by the Maltese Minister for Finance, formally appointing MDB to manage the measure;

b) The Operational Agreement to be signed by MDB with each of the accredited commercial banks, governing the operational aspects of the measure;

c) The Term Sheet covering the key details of the measure;

d) The Risk Sharing Agreement (RSA) governing the CGS to which the Operational Agreement governing the measure refers.

2.3. Administration of the measure

(11) MDB is responsible for administering the measure. MDB was established in 2017 and is fully owned by the Government of Malta. It is tasked with promoting sustainable development and offers financing facilities to support operations where the market is unable or unwilling to accommodate such activities on its own, in whole or part. MDB's activities focus on complementing and supplementing the operations of market players in the provision of financing facilities, particularly to small and medium sized enterprises ("SMEs"), infrastructure projects that contribute to national or regional development, and projects which are socially-oriented, energy efficient and environment friendly.

(12) MDB will enter into an Operational Agreement with each accredited commercial bank with regard to the implementation of the measure.

2.4. Budget and duration of the measure

(13) The estimated budget of the measure is EUR 40 million. This budget is separate from that of the CGS[5]. The measure is funded through the Maltese national budget.

(14) Aid may be granted under the measure as from its approval until no later than 31 December 2020.

2.5. Beneficiaries

(15) The final beneficiaries of the measure are undertakings active in Malta. Financial institutions are excluded from benefitting from the measure.

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[4] Chapter 574 of the laws of Malta, MALTA 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

[5] See recital (6).

(16) Aid may not be granted under the measure to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[6], the Agricultural Block Exemption Regulation ("ABER")[7], and the Fisheries Block Exemption Regulation ("FIBER")[8] on 31 December 2019.

(17) Aid is granted under the measure through commercial banks as financial intermediaries.

2.6. Sectoral and regional scope

(18) The measure applies to the whole territory of Malta and is open to all sectors of the economy with the exception of the following:

a) any illegal economic activity;

b) the production of and trade in weapons and ammunition,

c) pornography and prostitution;

d) nuclear energy;

e) IT activities that support activities listed in points a) to g) of this recital or consist of illegally downloading data or entering into electronic data networks;

f) research on human cloning or genetically modified organisms;

g) certain activities involving live animals for scientific or research purposes;

h) activities which give rise to significant negative environmental impacts;

i) activities constituting loans and advances between credit institutions.

2.7. Basic elements of the measure

(19) The measure is a grant to cover part of the interest to be paid on working capital loans granted under the CGS. The measure will improve the terms of those loans, reducing the cost of borrowing for the recipients of the loans and thereby mitigate the pressure of the COVID-19 outbreak on their liquidity and financial sustainability.

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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.

7 As defined in 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.

8 As defined in 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.

(20) The amount of the grant is up to 2.5 percentage points per loan. The borrower has to pay an interest rate of at least 0.1% on the loan. The maximum amount of aid per undertaking, as defined in Section 3.1 of the Temporary Framework, may not be exceeded.

(21) The interest rate subsidy will be paid for the first two years of the term of working capital loans approved and disbursed under the CGS. It will not be offered in relation to any other loans. The interest rate subsidy will be granted to all borrowers that received or will receive a working capital loan under the CGS. The eligibility criteria for the interest rate subsidy will be the same for all borrowers under the CGS.

(22) The measure has the following additional features:

a) MDB shall grant aid under the measure, in conjunction with the CGS, through accredited commercial banks acting as financial intermediaries;

b) Commercial banks that are accredited for the delivery of the CGS will also sign an agreement with MDB for the grant of the measure. A list of accredited commercial banks providing loans with subsidised interest rates will be published on the website of MDB. The date on which the aid is granted is the day the loan agreements between the accredited commercial banks and the beneficiaries are concluded;

c) The interest rate subsidy for working capital loans will be paid on a quarterly or half-yearly basis, as agreed with the accredited commercial banks. The subsidy will be paid out collectively by the MDB to the commercial banks in respect of all loan agreements signed under the CGS. The modalities regarding the payment of the subsidy are governed by the Operational Agreement between MDB and each accredited commercial bank;

d) The measure excludes any indirect aid in favour of the commercial banks. The Operational Agreement sets out the obligation of the commercial banks to pass on the entire benefit of the measure to the beneficiaries through lower interest rates. Moreover, the measure is open to all commercial banks licensed in Malta. The measure will be applied to all loans approved under the CGS. Different commercial banks may apply different margins and different charges depending on their respective credit policy, subject that the minimum terms of the CGS are complied with. Therefore, beneficiaries under the measure will be able to receive competing offers from different commercial banks;

e) The working capital loan granted, under the CGS, and with subsidised interest rates, under the measure, shall be a new loan or a loan already granted under the CGS scheme as from 3 April 2020.

(23) Aid granted to undertakings active in the processing and marketing of agricultural products[9] will not be partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.

[9] As defined in Article 2(6) and Article 2(7) of Commission Regulation (EC) No 702/2014.

(24) Aid granted to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market. Aid to undertakings active in the fishery and aquaculture sector 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.

(25) Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, the Maltese authorities will ensure that the relevant ceiling is respected for each of those activities.

2.8. Cumulation

(26) The Maltese authorities confirm that aid granted under the measure may be cumulated with aid under the relevant de minimis Regulations[10] or the Block Exemption Regulations[11] provided the provisions and cumulation rules of those Regulations are respected.

(27) The Maltese authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines are respected.

(28) The Maltese authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(29) The Maltese authorities confirm that if the beneficiary receives aid on several occasions under the measure or aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework[12], the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, shall be respected.

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[10] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), 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) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

[11] 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, Commission Regulation (EC) 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 on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1 and 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 on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

[12] Additionally, the Maltese authorities also note that this is the first aid measure that Malta is setting up under section 3.1 of the Temporary Framework.

2.9. Monitoring and reporting

(30) The Maltese authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid granted under the measure on the comprehensive State aid website[13] or Commission's IT tool within 12 months from the moment of granting[14]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(31) By notifying the measure before putting it into effect, Malta has respected its obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(32) 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.

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

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

(35) 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 (18), and excluding the financial sector.

(36) 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.

(37) 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.

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[13] In particular, MDB will also make relevant information on each individual aid granted publicly available on its website.

[14] Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014, Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014.

3.3. Compatibility

(38) 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.

(39) 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*".

(40) 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*".

(41) The measure aims at lowering the cost of access to external finance for 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.

(42) 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. In particular, the measure aims at supporting eligible undertakings facing a sudden acute liquidity shortage, as a result of the COVID-19 outbreak, by subsidising the interest cost on the initial two years of the loans they obtained in the context of the CGS. The measure is an additional measure to and shall be applied in conjunction with the CGS. Its scope is wide enough so that it 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 ("*Limited amounts of aid*") described in Section 3.1 of the Temporary Framework and complies with 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.

(43) 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:

- Aid is granted under the measure in the form of grants (recital (9));
- The overall nominal value of aid granted under the measure shall not exceed EUR 800 000 per undertaking (recital (20)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework;

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (13). The measure therefore complies with point 22(b) of the Temporary Framework;

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

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

- Undertakings active in the processing and marketing of agricultural products are excluded from benefitting from the measure when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers. The measure therefore complies with point 22(e) of the Temporary Framework;

- The overall nominal value of the aid granted under the measure shall 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 (recital (20)). The measure therefore complies with point 23(a) of the Temporary Framework;

- Aid granted under the measure to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market (recital (24)). The measure therefore complies with point 23(b) of the Temporary Framework;

- Aid granted under measure to undertakings active in the fishery and aquaculture sector 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 (recital (24)). The measure therefore complies with point 23(c) of the Temporary Framework;

- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Malta will ensure that the relevant ceiling is respected for each of those activities and that the highest possible total aid amount of EUR 800 000 or EUR 120 000 is not exceeded (recital (25)). The measure therefore complies with point 23bis of the Temporary Framework.

- The measure introduces a strong safeguard in relation to any possible indirect aid in favour of the commercial banks to limit undue distortions to competition. In particular, the Operational Agreement to be signed with the commercial banks explicitly requires that the latter transfer the entire amount of the subsidy to the beneficiaries through lower interest rates, thereby passing on the entire advantage of the measure to the final beneficiaries (recital (22)d)). The measure therefore complies with points 29 to 31 of the Temporary Framework.

(44) The Maltese authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (30)). The Maltese authorities further confirm that the aid granted under the measure may only be cumulated with other aid provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (26) to (29)).

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

(45) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution ("BRRD")[15] and of Regulation (EU) 806/2014 on the Single Resolution Mechanism ("SRMR")[16], in the event that an institution benefiting from the measure meets the conditions for the application of that Directive or of that Regulation, the Commission notes that the measure does not appear to violate intrinsically linked provisions of BRRD and of SRMR.

(46) 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.[17] 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 Article 2(1) No 28 BRRD and Article 3(1) No 29 SRMR.

(47) Moreover, as indicated in recital (22)d), the measure introduces a strong safeguard against any possible indirect aid in favour of the commercial banks to limit undue distortions to competition. That safeguard ensures that those commercial banks entirely pass on the advantages provided by the measure to the final beneficiaries.

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

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

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

[17] 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) TFEU.

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