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**Subject: State Aid SA.57152 (2020/N) – United Kingdom
Self-Employed (including members of partnerships) Income Support
Scheme under the Temporary Framework for State aid measures to
support the economy in the current COVID-19 outbreak**

Dear Foreign Secretary,

1. PROCEDURE

- (1) By electronic notification of 04 May 2020, the United Kingdom (the UK) notified the aid “Self-Employed (including members of partnerships) Income Support Scheme (SEISS, “the measure”) in the form of direct grants 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. DESCRIPTION OF THE MEASURE

- (2) The United Kingdom considers that the COVID-19 outbreak has started to affect the real economy and puts at risk the jobs of the workers and employees of undertakings that have suspended partially or entirely their activities due to the

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 Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1-9.

The Rt Hon Dominic Raab
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state of emergency and containment measures enforced by the national authorities. As a result, there is a risk of massive lay-offs or self-employed individuals not having a source of income². The measure thus aims to support lower earning self-employed individuals (including members of partnerships) whose income has been negatively impacted by COVID-19.

- (3) 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 and section 3.10 of the Temporary Framework.

2.1. The nature and form of aid

- (4) The measure provides aid in the form of direct grants.

2.2. National legal basis

- (5) The legal basis for the measure is the Coronavirus Act, specifically Section 76³, which empowers Her Majesty’s Revenue and Customs (HMRC), being the competent authority, to operate the measure. The conditions of the aid measure are set out in subordinated legislation⁴ adopted by the UK Government on 30 April 2020.

2.3. Administration of the measure

- (6) HMRC is responsible for administering the measure.

2.4. Budget and duration of the measure

- (7) The estimated budget of the measure is GBP 9 billion⁵.
- (8) According to the United Kingdom authorities the measure will cover a period of maximum 12 months after the application for aid (the aid will initially be granted for a period of 3 months, that period may be extended up to totally 12 month). Aid may be granted under the measure as from its approval until no later than 31 December 2020.

² The UK authorities submit an average of external forecasts for quarterly GDP growth in % of -1.9% for 2020 Q1, -13.4% for 2020 Q2; they also ascertain that in the 6 weeks [from the publication of the UK government’s COVID-19 action plan on 3 March 2020] to 12 April 2020, the Department for Work and Pensions received over 1.5m declarations to Universal Credit (the initial applications for benefit support for the unemployed and those on low incomes), which is almost 4 times higher than the amount of declarations received in the same period last year; finally, they refer to the Office of Budget Responsibility’s scenario that estimated the UK unemployment rate could rise from 3.8% in 2020 Q1 to 10% in 2020 Q2.

³ <http://www.legislation.gov.uk/ukpga/2020/7/section/76>

⁴ Direction issued by Her Majesty’s Treasury on The Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Self-Employment Income Support Scheme)

⁵ Approximately equal to EUR 10.34 billion at the exchange rate of EUR 1 = GBP 0.8706 on 5 May 2020, source https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eur_ofxref-graph-gbp.en.html¹⁰.

2.5. Beneficiaries

- (9) The final beneficiaries of the measure are self-employed individuals (including members of partnerships), active in the United Kingdom. In order to be eligible, the applicants have to fulfil the following conditions⁶:
- (a) submitted their Self-Assessment tax return⁷ for the tax year 2018 to 2019 reporting trading profits or losses;
 - (b) traded in the tax year 2019 to 2020;
 - (c) are trading when they apply, or would be without the COVID-19 pandemic;
 - (d) intend to continue to trade in the tax year 2020 to 2021;
 - (e) their business has been adversely affected by COVID-19 pandemic.
- (10) Furthermore, are only eligible self-employed individuals and members of trading partnerships that have trading profits of less than £50,000 and derive more than 50% of total income from self-employment for either:
- (a) the tax year 2018 to 2019 or
 - (b) the average of the tax years 2016 to 2017, 2017 to 2018, and 2018 to 2019.

⁶ The United Kingdom authorities submit that the following definitions apply to the eligibility criteria:

- **Self-employment:** for the purposes of this scheme means a natural person carrying on a trade profession or vocation, the profits of which are chargeable to income tax under Part 2 of [Income Tax \(Trading and Other Income\) Act 2005](#) (referred to below as ITTOIA 2005) (trading income)
- **Member of partnership:** for the purposes of this scheme means a natural person entitled to a share of the profits or losses of a partnership carrying on a trade, the profits of which are chargeable to income tax under Part 2 of ITTOIA 2005 and the rules relating to partnerships at Part 9 ITTOIA 2005.
- **Trading Profit:** for the purposes of SEISS is defined as the trading income component of total income in Section 23 of the Income Tax Act 2007 (referred to below as ITA 2007) less the amount of any trade loss for that year. The trading income component of total income and any trade loss are calculated according to the rules in Part 2 of ITTOIA 2005.
- **Total Income:** has the meaning given by section 989 of ITA 2007.
- **Relevant income:** includes all sources of income which make up total income, plus foreign income less the amount of any trading loss for the year.

⁷ The UK authorities clarify that all persons are legally required to notify HMRC (the UK tax authority) if they are chargeable to income tax ([section 7 TMA 1970](#)) regardless of their nationality or tax residence and are required to file a self-assessment tax return each year if served a notice to do so by HMRC ([section 8 TMA 1970](#)). Further, the SEISS measure eligibility is based on filing a tax return, and not on a tax payment to UK authorities. Finally, those who are resident in other countries are subject to the same eligibility tests as UK residents.

2.6. Sectoral and regional scope of the measure

- (11) The measure is open to all sectors. It applies to the whole territory of the United Kingdom.

2.7. Basic elements of the measure

- (12) The SEISS intends to support the income of self-employed individuals (including members of partnerships), which have been adversely affected by COVID-19. It is estimated by the UK authorities that around 3.8 million self-employed individuals (of which approximately 400,000 are members of partnerships) will benefit from the scheme.
- (13) The measure is restricted to the legally identifiable groups of self-employed individuals and members of trading partnerships that have trading profits of less than £50,000 and derive more than 50% of total income from self-employment.
- (14) In their applications for support under the measure, the applicants must confirm that:
- (a) Their business has been adversely affected by COVID-19; and
 - (b) They are currently trading and intend to carry on trading.
- (15) For each month covered by the grant, the eligible beneficiaries are entitled to 80% of 1/12 (one twelfth) of annual profits calculated (i) on the average of the tax years 2016 to 2017, 2017 to 2018 and 2018 to 2019, or (ii) on the average of the tax years 2017-18 and 2018-19 if the person did not carry on a trade in the tax year 2016-17, or (iii) on the average of the tax year 2018-19 if the person did not carry on a trade in the tax year 2017-18. The measure is subject to a cap of £2,500 per month per beneficiary. The grant is paid gross, which is equivalent to wages, but is taxable and subject to National Insurance contributions, which will be deducted at the appropriate point of taxation for self-employed based on the self-assessment tax process.
- (16) The measure will cover trading profits (calculated as per the above recital (15), which in this case are wage cost equivalents, of an initial period of 3 months, although could be extended, but it will not cover a period of more than 12 months.

2.8. Cumulation

- (17) The United Kingdom authorities confirmed that aid under the notified measure may be cumulated with aid under de minimis Regulations⁸ or the General Block

⁸ 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)

Exemption Regulations⁹ provided the provisions and cumulation rules of those Regulations are respected.

- (18) The United Kingdom authorities confirmed that aid under the notified measure may be combined with other generally available measures or with aid schemes in the form of employment support measures, provided the combined support does not lead to overcompensation of the wage costs of the personnel concerned.

2.9. Monitoring and reporting

- (19) The United Kingdom authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework.

3. ASSESSMENT

3.1. Existence of State aid

- (20) 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.
- (21) The measure is imputable to the State, since it is administered by HMRC and it is based on section 76 of the Coronavirus Act. It is financed through State resources, since it is financed by public funds from the general budget.
- (22) The measure confers an advantage on its beneficiaries in the form of direct grants.
- (23) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular to self-employed individuals (including members of partnerships), who fulfil the conditions expounded in recitals (9) and (10) above.
- (24) 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.
- (25) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU.

⁹ 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

3.2. Legality of the measure

- (26) By notifying the measure before putting it into effect, the United Kingdom authorities have respected their obligation under Article 108(3) TFEU¹⁰.

3.3. Compatibility

- (27) 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.
- (28) 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”*.
- (29) 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”*. The Commission also acknowledged (section 3.10 of the Temporary Framework) that *“In order to preserve employment, Member States may envisage contributing to the wage costs of undertakings (including self-employed individuals), which, due to the COVID-19 outbreak, would otherwise lay off personnel”*.
- (30) The measure aims at preserving employment by compensating self-employed individuals for a loss of income resulting from measures adopted at national level to respond to the COVID-19 outbreak, which affects the wider economy and has led to severe disturbances of the real economy of Member States, and in particular at support for lower earning self-employed individuals (including members of partnerships) whose income has been negatively impacted if not lost by COVID-19.
- (31) The measure is one of a series of measures conceived at national level by the United Kingdom authorities to remedy a serious disturbance in their economy. The importance of measures to preserve employment and economic continuity is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire United Kingdom economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (*“Aid in form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak”*) described in Section 3.10 of the Temporary Framework. It is to be noted that the self-employed are explicitly included in the provisions of this section 3.10 of the Temporary Framework and in this particular case, following the design of the measure, the

¹⁰ As applicable under Article 131 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7.

income support to be provided is equivalent to wage subsidies for employees, as average trading profit is the self-employed equivalent to wages and here forms the main source of income of the beneficiaries (see recital (10) and (15) above).

- (32) 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:
- As required by point 43 (a) of the Temporary Framework, the aid is aimed at preserving employment during the COVID-19 outbreak. In this specific case of self-employed individuals, this requirement translates into main income support to self-employed persons (including members of partnerships), who are trading or would have been trading except for the COVID-19 outbreak, whose business has been negatively impacted by COVID-19, and who intend to continue trading after the outbreak (see recitals (2) above, (9)(c), (9)(d), (9)(e) and (14) above).
 - As required by point 43 (b) of the Temporary Framework, the aid is granted in the form of a scheme to self-employed individuals that are particularly affected by the COVID-19 outbreak (see recitals (9), (10), (12) and (13) above);
 - As required by point 43 (c) of the Temporary Framework, the income support, which in this case is equivalent to wage subsidies (see recital (10) and (15) above) is granted over a period of not more than twelve months after the application for aid (see recital (16) above), in situations in which the business activity of the self-employed person or member of a partnership has been subject to suspension or reduction due to the COVID-19 outbreak (see recital (2) and (9)(e) above), and subject to the condition that the beneficiary intends to continue to trade for the entire period for which the aid is granted (see recital (9)(d) above).
 - As required by point 43 (d) of the Temporary Framework, the monthly income subsidy shall not exceed 80% of the monthly profit of the benefitting self-employed person (including members of partnerships), calculated as a monthly average over the period for which self-assessment tax returns have been filed (see recital (15) above). The Commission considers that the reliance on past actual profits of the self-employed appropriately corresponds to the monthly gross salary of an employee and therefore finds the subsidy proportionate.
 - In line with the requirement of point 43 (e) of the Temporary Framework, the United Kingdom authorities have confirmed that overcompensation of the beneficiaries concerned will be excluded, if support granted under the notified measure will be combined with other generally available or selective employment support measures (see recital(17) and (18) above).
- (33) The United Kingdom authorities confirmed that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (19) above).
- (34) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member

State pursuant to Article 107(3)(b) TFEU and meets all the relevant conditions of the Temporary Framework.

4. 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