EUROPEAN COMMISSION

Brussels, 3.07.2020
C(2020) 4645 final

PUBLIC VERSION

This document is made available for information purposes only.

Subject: State Aid SA.57574 (2020/N) – Malta
COVID-19: Bond subscription facility by the Malta Development Bank

Excellency,

1. PROCEDURE

(1) By electronic notification of 24 June 2020, Malta notified aid in the form of subsidised interest rates for a loan: the "Loan in the Form of a Bond Subscription Facility Agreement" between Malta Development Bank ("MDB") and Mediterranean Investments Holding p.l.c. ("MIH"), hereafter referred to as the "measure". Malta notified 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) 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 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, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 3–15, and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak.

Hon. Evarist Bartolo
Minister for Foreign and European Affairs
Palazzo Parisio
Merchants Street
Valletta, VLT 1171
Malta

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

2. DESCRIPTION OF THE MEASURE

2.1. Context of the measure

(3) The Maltese authorities have explained that because of the COVID-19 outbreak, the main economic sectors that drive the Maltese economy were brought to 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, several manufacturing sectors and service providers. The Maltese authorities argue that the economic repercussions are disproportionately high for Malta, a small and open economy that is highly dependent on foreign trade and tourism.

(4) The COVID-19 outbreak is also exerting an impact on the capital markets in Malta. The corporate bond index on the Malta Stock Exchange (MSE) shows a sharp decrease in investor confidence in Malta, especially pronounced during the period March – April 2020 but still ongoing as of the end of June. MIH, a real estate developer that has projects in North Africa, will issue a bond of EUR 20 million in July 2020. The Maltese authorities consider that if this bond is not fully subscribed by the markets, there could be significant spillover effects and a high risk of contagion on the stability of financial markets more broadly. According to the Maltese authorities, local banks would incur significant losses and new issuers could be discouraged from going to market. For this reason MDB, a bank wholly owned by the Maltese State, will through the bond subscription facility purchase the amount of the bond that is not subscribed by the market.

(5) The Maltese authorities have explained that because of fears that MIH's EUR 20 million bond would not be fully subscribed by the market, MIH approached the Bank of Valetta to provide underwriting services. Bank of Valetta rejected MIH's request, citing general uncertainties in the market as well as enhanced risk in particular for MIH's issue, because of the geo-political situation in Libya (where MIH operates one of its larger developments). Moreover, according to Corinthia Palace Hotel Company Limited ("the Corinthia Group"), to which MIH belongs, international lenders would not even have considered any request for an underwriting agreement either.

(6) The measure 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.

(7) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, as interpreted by Section 2 and Section 3.3 of the Temporary Framework.

---

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

2.2. The nature and form of aid

(8) The measure provides aid in the form of a subsidised interest rate on a loan. This is further explained in Section 2.8.

2.3. Legal basis

(9) The legal basis for the measure is a loan agreement between MDB and MIH: "loan in the form of a bond subscription facility agreement". The agreement will enter into force by 31 July at the latest.

2.4. Administration of the measure

(10) The measure is administered by MDB, a bank wholly owned by the Maltese State. MDB's remit is set out in the Malta Development Bank Act[3], adopted by the Maltese State.

2.5. Budget and duration of the measure

(11) The maximum nominal amount of the loan will not exceed EUR 18.7 million.

(12) Aid in the form of a subsidised interest rate on a 3-year loan may be granted under the measure as from its approval until no later than 31 July 2020.

2.6. Beneficiaries

(13) The beneficiary of the measure is MIH, a real estate developer that has projects in North Africa. Holdings in the MIH portfolio include residential complexes, retail and office spaces, industrial parks and large-scale mixed-use developments, including in particular a residential complex in Tripoli, Libya. MIH is a large enterprise and belongs to the Corinthia Group), the largest issuer of fixed-income securities on the Maltese Stock Exchange.

(14) The Maltese authorities have demonstrated that MIH was not in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[4] on 31 December 2019.

2.7. Sectoral and regional scope of the measure

(15) The measure applies to MIH only.

---

[3] http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12662&l=1.

[4] As defined in Article 2(18) 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[, Article 2(14) 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 of the Treaty, OJ L 193 of 1.7.2014, p.1, and Article 3(5) 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 of the Treaty, OJ L 369 of 24 December 2014, p. 37.]

2.8. Basic elements of the measure

(16) On 1 July 2015, MIH issued a 5-year EUR 20 million bond on the Malta Stock Exchange that matures on 31 July 2020. MIH will roll over this bond with a 3-year EUR 20 million bond to be issued in July 2020, redeemable on 31 July 2023, to be issued at par and carrying a coupon of 5.5% per year. This bond will be offered to the market on the Maltese Stock Exchange. The measure consists of a bond subscription facility by MDB whereby MIH will benefit from a subsidised interest rate on a 3-year loan lent to it by MDB in case the total amount of the bond to be issued in July 2020 is not taken up by the market. The loan will be of up to a maximum of EUR 18.7 million. Maturing bondholders of the 5-year EUR 20 million bond MIH issued on 1 July 2015 have the right to convert their current holding in full or partially into an allocation in the new 3-year EUR 20 million bond to be issued in July 2020.

(17) The MIH bond constitutes an unsecured obligation of MIH and ranks pari passu, without any priority or preference, with other outstanding and unsecured debt of MIH. It is therefore not subordinated to ordinary senior creditors in the case of insolvency proceedings within the meaning of point 27bis of the Temporary Framework.

(18) In addition, MIH will pay MDB a one-time administrative fee depending on the nominal amount of the loan, equivalent to 0.5% of the value of the loan for the first EUR 4 million (or less), rising by 0.25% for every additional tranche of EUR 2 million.

(19) MIH has already written to each of the 1039 holders of the maturing bond in this regard. According to the Maltese authorities, the feedback received so far indicates that probably at least half of the new bond to be issued in July 2020 will be taken up by the existing bondholders.

(20) Because of the instability on Maltese financial markets due to the COVID-19 outbreak, however, there is a risk that MIH's new bond issue, which pays for the maturing bond, will not be sufficiently subscribed by the private market, and that MDB might be required to support a greater share of it. The Maltese authorities consider that the maximum loan amounts foreseen in points 27(d)(i) and 27(d)(ii) of the Temporary Framework could be insufficient to cover the bond issue and therefore insufficient to ease market fears of the bond issue not being fully subscribed. The Maltese authorities therefore consider that it is justified to increase the maximum amount of the loan by reference to MIH's liquidity needs in the coming 12 months. The Maltese authorities have demonstrated, and MIH has certified, that MIH's liquidity needs for the coming 12 months, related to investment and working capital needs, are EUR 18.7 million. MDB's bond subscription facility is therefore limited to EUR 18.7 million.

(21) All of the above conditions are set out in and governed by a "loan in the form of a bond subscription facility" agreement between MDB and MIH. MIH may apply for the loan with a subsidised interest rate from MDB as from the approval of the measure by the Commission until no later than 31 July 2020.

2.9. Cumulation

(22) The Maltese authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[5] or the General Block Exemption Regulation[6] provided the provisions and cumulation rules of those Regulations are respected.

(23) 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.

(24) The Maltese authorities confirm that aid granted under Section 3.3 of the Temporary Framework shall not be cumulated with aid granted for the same underlying loan principal under Section 3.2 of that framework and vice versa. The Maltese authorities commit to ensure that aid granted under Section 3.2 and Section 3.3 of the Temporary Framework may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) or in point 27(d) of the Temporary Framework.

(25) The Maltese authorities also confirm that a beneficiary may benefit in parallel from multiple schemes under Section 3.3 of the Temporary Framework provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 27(d) of the Temporary Framework.

2.10. Monitoring and reporting

(26) 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 the individual aid

---

5 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).

6 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.

granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[7]).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

(28) For a measure to be categorised as State 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 the MDB, wholly owned by the Maltese State, whose remit is set out in the Malta Development Bank Act, adopted by the Maltese State (see recital (10)). It is financed through State resources, since it is financed by public funds (see recital (10)).

(30) The measure confers an advantage on MIH in the form of subsidised interest rates on a loan. Indeed, the Maltese authorities have explained that MIH was not able to access financing on the markets (see recital (5)). These elements show that the operation would most likely not have been undertaken by an operator in the market. The interest rate of the loan cannot therefore be considered to reflect normal market conditions.

(31) The advantage granted by the measure is selective, since it is awarded only to MIH (see recital (13)).

(32) The measure is liable to distort competition, since it strengthens the competitive position of MIH. It also affects trade between Member States, since MIH is active in sectors in which intra-Union trade exists.

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

3.3. Compatibility

(34) Since the measure involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

---

7 Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014. For loans, the nominal value of the underlying instrument shall be inserted.

(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 (in 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 MIH's access to finance 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 importance of the measure to preserve financial stability on the Maltese financial markets is widely accepted by economic commentators and the measure is of a scale that can be reasonably anticipated to prevent the deterioration of financial conditions across the entire Maltese economy (see recital (4)). Furthermore, the measure has been designed to meet the requirements of a specific category of aid (Aid in the form of subsidised interest rates on loans) described in Section 3.3 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:

- At 5.5% annually (see recital (16)), the applicable interest rate for the loan granted under the measure is considerably higher than the minimum requirements set out in Section 3.3 of the Temporary Framework. The base rate of 1-year IBOR or equivalent as published by the Commission[8] applicable on 1 January 2020 plus a credit margin of 1% for large enterprises would, in MIH's case, (a large enterprise issuing a 3-year bond) be equal to 0.69%[9]. The measure therefore complies with point 27a of the Temporary Framework.

- The loan contract will be signed by 31 July 2020 at the latest and is limited to a maximum of 6 years (recitals (9) and (12)). The measure therefore complies with point 27(c) of the Temporary Framework.

- The maximum loan amount is limited in line with point 27(d)(iii) of the Temporary Framework (recital (20)). The Commission considers indeed

8 Base rates calculated in accordance with Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

9 The 1-year IBOR rate for Malta on 1 January 2020 as published by the Commission was -0.31%. See: https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html. This base rate should be increased by the credit margins set out in point 27 of the Temporary Framework, i.e. 100 basis points for a 3-year bond issued by a large enterprise.

that it is justified to increase the amount of the loan to cover MIH's liquidity needs for the coming 12 months, thereby ensuring that MIH's bond issue will be sufficiently subscribed and preventing instability on the Maltese financial markets, a contraction in credit, and losses to local banks (see recitals (4) and (5)).

- The loan granted under the measure relates to investment and working capital needs (recital (20)). The measure therefore complies with point 27(f) of the Temporary Framework.

- MIH was not in difficulty on 31 December 2019 (recital (14)). The measure therefore complies with point 27(g) of the Temporary Framework.

- The loan granted under the measure is not subordinated to ordinary senior creditors in case of insolvency proceedings (see recital (17)). The Commission notes nevertheless that even if the bond constituted subordinated debt, the annual interest rate of 5.5% would still be considerably higher than the minimum requirements of the Temporary Framework, which would be 2.69% for a 3-year bond issued by a large enterprise in Malta. The measure therefore complies with point 27bis of the Temporary Framework.

- The cumulation rules set out in point 26bis of the Temporary Framework are respected (see recitals (22) to (25)).

(40) The Maltese authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (26)).

(41) 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 since it 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.

The decision is based on non-confidential information and is therefore published in full on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

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