EUROPEAN COMMISSION

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PUBLIC VERSION

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Subject: State Aid SA.58096 (2020/N) – Spain
COVID-19 - Amendments to SA.56803 (2020/N) Guarantee scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 27 July 2020, Spain notified amendments to the aid scheme SA.56803 (2020/N) which the Commission had approved on 24 March 2020 under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended ("the Temporary Framework").[1]

[1] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, 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,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 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Third Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3.

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(2) Spain 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[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) The Spanish authorities wish to amend the existing aid scheme SA.56803 (2020/N) "*Línea de avales para las empresas y autónomos para paliar los efectos económicos del COVID-19*", ("the existing aid scheme") approved by Decision C(2020) 1925 final of 24 March 2020 ("the decision of 24 March 2020").

(4) The objective of the existing aid scheme is to ensure that sufficient liquidity remains available in the market, to counter the damage inflicted upon undertakings impacted by the outbreak and to preserve the continuity of economic activity during and after the outbreak. With the same purpose, the notified amendments pursue the objectives of helping undertakings to overcome possible liquidity shortages stemming from the impact of the health crisis and of contributing to recover the level of investment before the COVID-19 outbreak.

(5) The legal bases for the existing aid scheme are specified in recital (13) of the decision of 24 March 2020. New legal bases are relevant for the notified amendments:

(a) The Royal Decree-Law 25/2020, which in its article 1 enables the Ministry of Economic Affairs and Digital Transformation to grant guarantees up to EUR 40 billion to private sector loans of companies and self-employed that undergo financial difficulties and investment needs as a consequence of the COVID-19 outbreak.

(b) An Agreement of the Council of Ministers that will release a tranche of guarantees for up to EUR 8 billion of loans and establishes the concrete features of the measure in full compliance with this Decision.

(6) The existing aid scheme SA.56803 released a tranche of guarantees of EUR 20 billion from the total envelope of EUR 100 billion that the Government of Spain approved through Royal Decree-Law 8/2020. The subsequent tranches were released after the authorisation of the Spanish umbrella scheme in decision SA.56851 (2020/N).[3]

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

[3] SA.56851 ECON - Umbrella Scheme - National Temporary Framework for State aid in the form of direct grants, repayable advances, tax advantages, guarantees on loans and subsidised interest rates for loans to support the economy in the current COVID outbreak. https://ec.europa.eu/competition/state_aid/cases1/202016/285295_2148302_60_2.pdf.

(7) The Royal Decree-Law 25/2020 approves an envelope of EUR 40 billion. Spain intends to release the amount in different tranches. The first tranche of EUR 8 billion is envisaged to be divided into two sub-tranches:

(a) Up to EUR 5 billion for self-employed and small and medium-sized enterprises ("SMEs"[4]).

(b) Up to EUR 3 billion for large enterprises.

(8) The Agreement of the Council of Ministers excludes refinancing operations, reducing the scope of eligible instruments in the existing aid scheme.

(9) Beneficiaries can submit applications for aid until 1 December 2020. The guarantees can be granted no later than 31 December 2020.

(10) Eight years is the new maximum maturity of the loan. The maturity of the guarantee will match that of the loan up to eight years.

(11) The lower coverage ratios of 80% and 70% for new loans as well as their respective minimum guarantee premiums are maintained until the 5th year, compared to the existing aid scheme, as stated in recital (19) of the decision of 24 March 2020. The new minimum premiums from the 6th to the 8th year are set as follows. Flat guarantee premiums will be applied, using the last year guarantee premium for the entire duration of the loan. As regards the guarantee coverage, losses are sustained proportionally and under the same conditions by the financial intermediaries and the State.

Beneficiary	Instrument	1st year	2nd and 3rd year	4th and 5th year	6th year	7th year	8th year	Guarantee coverage
SMEs and self employed	New loans	20bps	30bps	80bps	80bps	169bps	188bps	80%
Large companies	New loans	30bps	60bps	120bps	125bpss	260bps	285bps	70%

(12) All the other conditions of the existing aid scheme (granting authority, administration of the scheme, beneficiaries, sectoral and geographical scope of the measure, other eligibility conditions, cumulation rules and monitoring and reporting rules), as described in the decision of 24 March 2020, remain unchanged.

[4] As defined in Annex I 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.

3. ASSESSMENT

3.1. Lawfulness of the measure

(13) By notifying the amendments before putting it into effect, the Spanish authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(14) 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.

(15) The Commission's decision SA.56803 of 24 March 2020 concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The notified amendments, which mainly increase the budget and set eight years as maximum amount of the loan and the respective guarantee premiums (see recitals (7), (10) and (11) above), do not affect that conclusion. The Commission therefore refers to the assessment contained in recitals (27) to (31) of the aforementioned decision, which applies also to these amendments.

3.3. Compatibility

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

(17) 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*".

(18) 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*".

(19) The objective of the scheme remains unchanged and continues complying with Section 2 of the Temporary Framework.

(20) The Commission refers to its analysis of compatibility as set out in recitals (35) to (38) of the decision of 24 March 2020, with the exception of compliance with points 25(b) and (f) of the Temporary Framework which is assessed below.

(21) Spain increases the initial budgetary envelope as described in recitals (6) and (7) by EUR 40 billion and amends the maximum loan maturities and accordingly the pricing.

(22) The amended scheme uses the flexibility under point 25(b) of the Temporary Framework by setting duration of the guaranteed loans up to a maximum of eight years and a modulation of the respective guarantee premiums. Recital (11) above provides the established guarantee premiums per year and type of beneficiary, which are lower than the minimum guarantee premiums established in point 25(a) of the Temporary Framework but are applied as flat guarantee premiums, using the last year guarantee premium for the entire duration of the loan. The guarantee premiums until the 6th year are modulated below the minimum premiums set out in the Temporary Framework in order to consider the lower participation of the State in the losses. The guarantee premiums for the 7th and 8th year reflect the exceptional nature of longer maturities and also account for lower coverage ratios compared to the norm under the Temporary Framework. The significant increase of the premiums in the 7th and 8th year and the application of flat guarantee premiums (recital (11)) contain an incentive for granting shorter maturities. The duration of guarantees is limited to a maximum of eight years, instead of six years as provided for under point 25(f) of the Temporary Framework. The longer duration complies with point 25(b) of the Temporary Framework that allows for the modulation of the maximum maturity of six years. However, in the case at hand the maximum coverage by the guarantee is 80% for SMEs and self-employed, and 70% for large companies and losses are sustained proportionally and under the same conditions by the financial intermediaries and the State (recital (11)). Thus the maximum coverage by the guarantee is lower than the one established in point 25(f) of the Temporary Framework. Therefore, the Commission concludes that the remuneration of the guarantees envisaged by Spain conforms to point 25(b) and (f) of the Temporary Framework.

(23) Apart from the modifications referred to in recitals (7) to (11) above, the Commission notes that there are no other alterations to the existing aid scheme (recital (12)). Consequently, the notified amendments to the existing aid scheme do not alter the finding of compliance of the scheme with the remainder of the conditions set out in Section 3.2 of the Temporary Framework.

(24) The Commission accordingly 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 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
Secretary-General

Ilze JUHANSONE
EUROPEAN COMMISSION