EUROPEAN COMMISSION

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PUBLIC VERSION
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Excellency,

1. **PROCEDURE**

   (1) By electronic notification of 28 September 2020, Spain notified amendments to the aid scheme SA.56851 (2020/N) which the Commission had approved on 2 April 2020 under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).

   (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

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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

(3) The Spanish authorities wish to amend and prolong the existing aid scheme SA.56851 (2020/N), “Umbrella Scheme - National Temporary Framework for State aid in the form of direct grants, repayable advances, tax or payments advantages, guarantees on loans and subsidised interest rates for loans to support the economy in the current COVID outbreak” (“the existing aid scheme”), approved by Decision C(2020) 2154 final of 2 April 2020 (“the decision of 2 April 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.

(5) The legal basis for the existing aid scheme is specified in recital (9) of the decision of 2 April 2020. The legal basis for the amendment is the Agreement of the National Government Commission for Economic Affairs of 25 September 2020, which extends the conditions of the guarantees that can be approved by the different public administrations within the existing aid scheme.

(6) The administration of the amended measure remains under the same granting authorities as identified in recital (10) of the decision of 2 April 2020.

(7) As described in recital (23)(c) of the decision of 2 April 2020, the competent granting authorities may replicate the characteristics of the guarantee as authorised in decision SA.56803 (2020/N).\(^3\) The decision SA.58096 (2020/N)\(^4\) modified those characteristics.

(8) The amendments related to the guarantee conditions are in line with the decision SA.58096 (2020/N) and only affect the following conditions of the guarantees:

(a) Refinancing operations are excluded, reducing the scope of eligible instruments in the existing aid scheme.

(b) 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.

(c) The lower coverage ratios of 80% and 70% for new loans as well as their respective minimum guarantee premiums are maintained until the 5\(^{th}\) year, compared to the existing aid scheme, as stated in recital 23(c) of the

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

\(^3\) Decision S.A. 56803 (2020/N) – Spain COVID-19 - Guarantee scheme to companies and self-employed to support the economy in the current COVID-19 outbreak. [https://ec.europa.eu/competition/state_aid/cases1/202013/285233_2142736_57_2.pdf](https://ec.europa.eu/competition/state_aid/cases1/202013/285233_2142736_57_2.pdf)

decision of 2 April 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.

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

(9) On 13 October 2020, the Commission adopted a Communication\(^5\) prolonging the validity of the Temporary Framework, which would otherwise expire at the end of 2020, and expanding its scope.

(10) Following the prolongation of the Temporary Framework, the Spanish authorities extend the duration of the entire amended scheme until 30 June 2021. All the references to the date 31 December 2020 in the decision of 2 April 2020 are replaced by 30 June 2021.

(11) Beneficiaries can submit applications for aid until one month before the end of the granting period. Aid under the amended measure can be granted no later than 30 June 2021.

(12) All the other conditions of the existing aid scheme, as described in the decision of 2 April 2020, remain unchanged. Apart from the prolongation of the amended measure until 30 June 2021, the Spanish authorities do not notify any amendments related to aid in the form of direct grants, repayable advances and tax or payments advantages or aid in the form of loans with subsidised interest rates.

(13) The Spanish authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework, also accounting for the extension of the amended measure until 30 June 2021.

3. ASSESSMENT

3.1. Lawfulness of the measure

(14) 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

(15) 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.

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\(^5\) Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance.
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.

(16) The decision of 2 April 2020 concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The notified amendments, which are in line with the decision SA.58096 (2020/N) and mainly provide the possibility to set eight years as maximum maturity of the loan and the respective guarantee premiums (see recital (8) above), do not affect that conclusion. The Commission therefore refers to the assessment contained in recitals (39) to (44) of the aforementioned decision of 2 April 2020, which applies also to these amendments.

3.3. Compatibility

(17) 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.

(18) 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”.

(19) 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”.

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

(21) The Commission refers to its analysis of compatibility as set out in recitals (49) to (54) of the decision of 2 April 2020, with the exception of compliance with points 25(b) and (f) of the Temporary Framework. The amended measure also prolongs the validity period until 30 June 2021 at the latest.

(22) Spain amends the maximum loan maturities and accordingly the pricing (recital (8)).

(23) Both extended maturities and pricing replicate the characteristics of the guarantees authorised in decision SA.58096 (2020/N). 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 (8) 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 (8)) 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 (8)). 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.

(24) The amended measure is valid until 30 June 2021 and aid can be granted until that date at the latest (recitals (10) and (11)). The amended measure therefore complies with all the conditions related to the date of 30 June 2021 in points 22, 23, 25 and 27 of the Temporary Framework.

(25) Apart from the modifications referred to in recitals (8), (10) and (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 Sections 3.1, 3.2 and 3.3 of the Temporary Framework.

(26) The Commission accordingly considers that the measure, as modified, 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