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PUBLIC VERSION

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Subject: State Aid SA.58848 (2020/N) – Poland – COVID-19: Amendment of SA.56896 (2020/N) - anti-crisis measures in the form of loans and guarantees financed from EU funds and SA.58849 (2020/N) – Poland - COVID-19: Amendment of SA.57065 (2020/N) - anti-crisis measures in the form of loans and guarantees financed from the re-use of resources returned from 2007-2013 financial instruments

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 October 2020, amended on 19 October 2020, Poland notified two amendments concerning the following existing aid schemes (“the existing aid schemes”):
 - (a) SA.56896 – COVID-19: anti-crisis measures in the form of guarantees on loans and subsidised interest rates for loans provided under *Regulation of the Minister of Development Funds and Regional Policy on providing state aid from financial instruments under operational programmes for 2014-2020 perspective to support the Polish economy in connection with the COVID-19 pandemic outbreak*, which the Commission approved by Decision of 8 April 2020¹ and

¹ Commission Decision of 8 April 2020 - SA.56896 (2020/N), OJ C144, 30.04.2020.

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- (b) SA.57065 - COVID-19: anti-crisis measures in the form of guarantees on loans and subsidised interest rates provided under *Regulation of the Minister of Development Funds and Regional Policy, on providing State aid financed from resources returned from repayable financial instruments in the context of the 2007-2013 cohesion policy programmes, to support the Polish economy in connection with the COVID-19 pandemic outbreak*, which the Commission approved by Decision of 22 April 2020².
- (2) Poland 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 1/1958,³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) The Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”)⁴, provides in point 27(a), with respect to State aid in the form of subsidised interest rates for loans, that “*loans may be granted at reduced interest rates which are at least equal to the base rate (1 year IBOR or equivalent as published by the Commission⁵) available either on 1 January 2020 or at the moment of notification, plus the credit risk margins as set-out in the table below...*”.
- (4) Thus, since the third amendment of the Temporary Framework, a Member State has the option to use the base rate that is available either on 1 January 2020 or at the moment of notification.
- (5) Poland plans to modify the existing aid schemes SA.56896 and SA.57065 to take account of the amendment of the Temporary Framework described in recital (3) and to use the base rate available on 1 October 2020 as “available base rate” at the moment of notification (2 October 2020, as mentioned in recital (1)).

² Commission Decision of 22 April 2020 - SA.57065 (2020/N), OJ C144, 30.04.2020.

³ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁴ 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 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 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, by Communication from the Commission C(2020) 4509 final 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, and by Communication from the Commission C(2020) 7127 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, OJ C 340I, 13.10.2020, p. 1.

⁵ *Base rates calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p. 6.) and published on the website of DG Competition at https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html.*

- (6) With the amended notification of 19 October 2020, Poland also notified an extension of the period within which the aid can be granted to 30 June 2021. This extension applies to aid in the form of guarantees and to aid in the form of subsidised interest rates under both existing aid schemes SA.56896 and SA.57065. Consequently, in both schemes, the guarantees can be granted until 30 June 2021 and the loan contracts with subsidised interest rates can be signed until 30 June 2021. For the determination of the maximum overall loan principals per beneficiary according to points 25(d), 25(e) and 27(d), 27(e) of the Temporary Framework, the reference date will be also the date of 30 June 2021.
- (7) The Polish authorities confirm that no further modifications are proposed to the existing aid schemes.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (8) By notifying the modifications to the existing aid schemes before putting them into effect, the Polish authorities have respected their obligation under Article 108(3) of the TFEU.

3.2. Existence of State aid

- (9) 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.
- (10) The aid measures concerned constitute State aid in the meaning of Article 107(1) of the TFEU for the reasons set out in recitals (27)-(32) of the initial decision described under recital (1)(a) above and in recitals (31)-(36) of the initial decision described under recital (1)(b) above, authorising the existing aid schemes referred to in recital (1), and that assessment also applies to the notified modifications.

3.3. Compatibility

- (11) The Commission assessed the initial notifications on the basis of Article 107(3)(b) of the TFEU in light of the Temporary Framework and concluded that the existing aid schemes were compliant with the compatibility conditions set out in the Temporary Framework.
- (12) The Commission refers to its analysis of compatibility as set out in the initial decisions , namely in recitals (33)-(38) of the initial decision described under recital (1)(a) above and in recitals (37)-(49) of the initial decision described under recital (1)(b) above.
- (13) As regards State aid in the form of subsidised interest rates for loans, the Commission considers that the applicable base rate can be either the one available on 1 January 2020 or at the date of the notification. This optionality for the applicable base rate takes into account that the base rate may have decreased since 1 January 2020, which implies that the effective interest rate would be lower

than if the base rate had been set at 1 January 2020. Poland intends to use the base rate of 1 October as base rate available at the date of notification of this amendment (2 October 2020, recital (1)), in accordance with point 27(a) of the Temporary Framework.

- (14) The Commission considers the extension of the period within which the aid can be granted (recital (6)) to be in line with points 25(c) and 27(c) of the Temporary Framework. The same applies to the change in the reference date for the determination of the maximum overall loan principals in accordance with points 25(d), 25(e) and 27(d), 27(e) of the Temporary Framework.
- (15) In view of the above, the Commission considers that the notified modifications meet the conditions of the Temporary Framework and do not affect the compatibility analysis of the existing aid schemes as set out in the initial decisions mentioned in recital (1).

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified amendments on the grounds that they are compatible with the internal market pursuant to Article 107(3)(b) of the TFEU.

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

