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**Subject: State Aid SA.59428 (2020/N) – Luxembourg  
COVID-19: Nouvelle aide de relance**

Excellency,

**1. PROCEDURE**

- (1) By electronic notification of 10 November 2020, Luxembourg notified aid in the form of limited amounts of aid (*'Nouvelle aide de relance'*, “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”)<sup>1</sup>.
- (2) Luxembourg exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction

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<sup>1</sup> 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; 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; and by 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, OJ C 340 I, 13.10.2020, p. 1.

Son Excellence Monsieur Jean ASSELBORN  
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with Article 3 of Regulation 1/1958<sup>2</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE MEASURE**

- (3) Luxembourg considers that the COVID-19 outbreak continues to affect the real economy. According to a recent report of Luxembourg's national statistical office, the National Institute of Statistics and Economic Studies, Luxembourg's Gross Domestic Product ('GDP') will fall by 6 % in 2020<sup>3</sup>. The Luxembourgish authorities consider that the economic rebound that they expected for the second half of 2020 is now unlikely due to the second wave of infections resulting from the COVID-19 outbreak. While some sectors are more affected than others, Luxembourg also considers that the negative impact of the COVID-19 outbreak is visible throughout most of its national economy.
- (4) The Luxembourgish authorities have adopted new restrictions to tackle the second wave of infections. These include a curfew, limiting groups to a maximum of four people or teleworking where possible. Luxembourg expects that businesses will face a significant drop in turnover because of the second wave of infections resulting from the COVID-19 outbreak and the new restrictions adopted to tackle it.
- (5) In view of this, Luxembourg plans to introduce a new measure addressing the economic effects of the second wave of infections resulting from the COVID-19 outbreak and the subsequent restrictions. The measure seeks to provide liquidity to certain undertakings (see recital (14) below) that continue to experience an important loss of turnover (see recitals (18) and (19) below).
- (6) The measure forms part of an overall package of measures. It 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 undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.
- (7) Luxembourg confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the European Economic Area ("EEA") to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (8) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

### **2.1. The nature and form of aid**

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

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

<sup>3</sup> <https://statistiques.public.lu/catalogue-publications/conjoncture-flash/2020/PDF-Flash-09-2020.pdf>.

## **2.2. Legal basis**

- (10) The legal basis for the measure is the draft law '*Projet de loi ayant pour objet la mise en place d'une nouvelle aide de relance en faveur de certaines entreprises*', to be adopted by Luxembourg before the end of 2020.

## **2.3. Administration of the measure**

- (11) The Ministry of the Economy of the government of Luxembourg is responsible for administering the measure.

## **2.4. Budget and duration of the measure**

- (12) The estimated budget of the measure is EUR 60 million. It is financed by a fund established by law ('*Fonds de relance et de solidarité*'). The fund is subject to the authority of the Ministry of the Economy and of the Ministry of Finance of the Luxembourgish government. The fund is financed by both the general budget of Luxembourg and private voluntary contributions.
- (13) Aid may be granted under the measure as from its approval until no later than 30 June 2021.

## **2.5. Beneficiaries**

- (14) The final beneficiaries of the measure are undertakings that fulfil the criteria referred to in recital (19) below and fall within one of the following categories:
- (a) are listed in the annex to '*Loi du 24 juillet 2020 visant à mettre en place un fonds de relance et de solidarité et un régime d'aides en faveur de certaines entreprises*'<sup>4</sup>;
  - (b) operate a retail trade business as defined in '*Loi du 24 juillet 2020 ayant pour objet la mise en place d'un régime d'aide temporaire en faveur du commerce de détail en magasin*'; or
  - (c) manage an institution of continuous vocational training.
- (15) Financial institutions are excluded as eligible final beneficiaries.
- (16) Aid may not be granted under the measure to medium and large enterprises<sup>5</sup> that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")<sup>6</sup> and the Agricultural Block Exemption Regulation ("ABER")<sup>7</sup> on 31 December 2019. Aid may be granted to micro and small

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<sup>4</sup> This annex includes, among others, sectors such as hotel and camping, restaurant and catering services, sale of drinks, travel and event organisation agency services, rental of conferences and exposition venues, photography and advertising.

<sup>5</sup> As defined in Annex I to 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, 26.6.2014, p. 1 ("GBER"); and in Annex I to 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, 1.7.2014, p. 1 ("ABER").

<sup>6</sup> As defined in Article 2(18) of GBER.

<sup>7</sup> As defined in Article 2(14) of ABER.

enterprises<sup>8</sup> that were in difficulty within the meaning of GBER and ABER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid<sup>9</sup> or restructuring aid.<sup>10</sup>

## **2.6. Sectoral and regional scope of the measure**

- (17) The measure is open only to undertakings active in the sectors covered by recitals (14)(a) to (c) above. It applies to the whole territory of Luxembourg.

## **2.7. Basic elements of the measure**

- (18) The measure aims to provide liquidity to undertakings that continue to experience a significant decrease in turnover in the coming months due to second wave of infections resulting from the COVID-19 outbreak and the subsequent restrictions imposed by Luxembourg. It provides support in the form of monthly direct grants between December 2020 and March 2021. Undertakings must submit separate applications for each month for which they request aid.
- (19) To be eligible to receive aid under the measure, an undertaking needs to fulfil the following conditions:
- (a) It holds an establishment permit pursuant to '*Loi modifiée du 2 septembre 2011 réglementant l'accès aux professions d'artisan, de commerçant, d'industriel ainsi qu'à certaines professions libérales*' for the activity for which it applies for aid;
  - (b) In relation to the economic activity for which it is applying for aid, it was already carrying out such activity before 15 March 2020;
  - (c) It has carried out economic activities in the period in relation to which it applies for aid<sup>11</sup>;
  - (d) If the undertaking has employees, it is registered at the '*Centre Commun de la Sécurité Sociale*';
  - (e) Its turnover in 2019 amounted to at least EUR 15 000<sup>12</sup>;
  - (f) In the month in relation to which it applies for aid, it has not laid off more than 25% of its full-time employees or, if it has no more than four employees, it has not laid off more than one employee for reasons not related to the individual workers;
  - (g) In the month in relation to which it applies for aid, it faced a decrease in turnover of at least 25% compared to the same months of 2019<sup>13</sup>.

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<sup>8</sup> As defined in Annex I to GBER and Annex I to ABER.

<sup>9</sup> Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

<sup>10</sup> Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

<sup>11</sup> This condition does not apply to undertakings that cannot carry out their activity due to the restrictions imposed by Luxembourg to tackle the COVID-19 outbreak pursuant to '*Loi modifiée du 17 juillet 2020 sur les mesures de lutte contre la pandémie*'.

<sup>12</sup> In case of undertakings established in the course of 2019, this amount is adapted pro-rata to take into account their date of start of the activities.

- (20) The aid is calculated by multiplying the number of full time employees and self-employed persons working for the eligible undertaking by the following amounts:
- (a) EUR 1 250 per full time employee or self-employed person active in the month for which the undertaking applies for aid;
  - (b) EUR 250 per full time employee or self-employed person on full short-time work (*'chômage partiel complet'*) in the month for which the undertaking applies for aid.
- (21) In case of employees in part-time or that are not on full short-time work (*'chômage partiel complet'*), the amounts indicated under letters (a) and (b) of the previous recital are quantified pro-rata.
- (22) The amount of aid granted to each beneficiary is capped at 85% of the loss in its monthly turnover, calculated as explained in recital (19)(g) above. In addition, the aid cannot exceed EUR 100 000 per month in gross terms (i.e. for a total amount of EUR 400 000 per undertaking during the eligible period of four months).
- (23) The aid granted to undertakings active in the processing and marketing of agricultural products<sup>14</sup> is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.

## **2.8. Cumulation**

- (24) The Luxembourgish authorities confirm that aid granted under the measure may be cumulated with aid under the de minimis Regulation<sup>15</sup> provided the provisions and cumulation rules of that Regulation are respected.
- (25) The Luxembourgish 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.
- (26) The Luxembourgish authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, will be respected.
- (27) Aid granted under the measure cannot be cumulated with aid granted under other measures approved by the Commission under Article 107(2)(b) TFEU for the same eligible costs.

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<sup>13</sup> In case of undertakings that were not active in the corresponding month, this decrease of turnover is calculated against their average monthly turnover in 2019.

<sup>14</sup> As defined in Article 2(6) and Article 2(7) of ABER.

<sup>15</sup> 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).

## **2.9. Monitoring and reporting**

- (28) The Luxembourgish 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 each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting<sup>16</sup>).

## **3. ASSESSMENT**

### **3.1. Lawfulness of the measure**

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

### **3.2. Existence of State aid**

- (30) 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.
- (31) The measure is imputable to the State, since it is administered by the Ministry of the Economy of the government of Luxembourg (recital (11)) and it is based on the legislation referred to in recital (10). It is financed through State resources, since it is financed by a fund subject to the authority of the Ministry of the Economy and of the Ministry of Finance of the Luxembourgish government and whose funds stem partly from the general budget of Luxembourg (recital (12)).
- (32) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (9)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (33) The advantage granted by the measure is selective, since it is awarded only to undertakings that fulfil the conditions described in recitals (14) and (19) and are not active in the financial sector (recital (15)).
- (34) 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.
- (35) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Luxembourgish authorities do not contest that conclusion.

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<sup>16</sup> Referring to information required in Annex III to GBER and Annex III to ABER.

### 3.3. Compatibility

- (36) 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.
- (37) 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*”.
- (38) 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*”.
- (39) The measure aims at providing liquidity to undertakings that have experienced a significant drop in turnover at a time when the normal functioning of 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.
- (40) The measure is one of a series of measures conceived at national level by the Luxembourgish authorities to remedy a serious disturbance in their economy. The importance of the measure to provide missing liquidity by means of direct grants is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire economy of Luxembourg. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in section 3.1 of the Temporary Framework.
- (41) 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:
- The aid takes the form of direct grants (recital (9)). Their overall nominal value shall not exceed EUR 800 000 per undertaking in gross terms, that is, before any deduction of tax or other charges (recital (22)). The measure therefore complies with point 22(a) of the Temporary Framework;
  - Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (12). The measure therefore complies with point 22(b) of the Temporary Framework;
  - Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019 (recital (16)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid or restructuring aid

(recital (16)). The measure therefore complies with point 22(c)bis of the Temporary Framework;

- Aid will be granted under the measure no later than 30 June 2021 (recital (13)). The measure therefore complies with point 22(d) of the Temporary Framework;
- Aid granted to undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers (recital (23)). The measure therefore complies with point 22(e) of the Temporary Framework.

(42) The Luxembourgish authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (28)). The Luxembourgish authorities further confirm that the aid under the measure may only be cumulated with other aid provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (24) to (26)).

(43) 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