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**Subject: State Aid SA.60081 (2020/N) – Denmark
COVID-19: Danish compensation scheme for fixed costs (umbrella
scheme under TF3.1)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 9 December 2020, Denmark notified an aid scheme in the form of limited amounts of aid (Danish compensation scheme for fixed costs (umbrella scheme under TF3.1), “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 Denmark provided further information on 15 December 2020.

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, 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.

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- (2) Denmark 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 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Denmark considers that the COVID-19 outbreak affects the real economy. The measure forms part of an overall package of measures and 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.
- (4) Denmark expects that the economic crisis suffered in 2020 will persist well into 2021. Denmark considers it necessary to have a flexible scheme under the Temporary Framework in order to support undertakings affected by the economic consequences caused by the COVID-19 outbreak, in the form of limited amounts of aid.
- (5) Denmark 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 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.
- (6) 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. Objective of the measure

- (7) The aim of this umbrella measure is to cover acute lack of liquidity affecting companies as a result of the governmental COVID-19 measures. The grants will cover in particular a part of the fixed costs of undertakings affected by the measures taken by Danish public authorities to limit the COVID-19 outbreak.

2.2. The nature and form of aid

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

2.3. Legal basis

- (9) The legal basis for the measure are direct Acts on the Danish Budget Law³.

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

³ The Acts will be followed by executive orders setting out more detailed provisions for the aid scheme during its entire duration.

2.4. Administration of the measure

- (10) The Danish Business Authority is responsible for administering the measure.

2.5. Budget and duration of the measure

- (11) The estimated budget of the measure is DKK 280 million per month (EUR 37.5 million⁴) for the duration of the measure.
- (12) The measure will be financed by the Danish State budget.
- (13) The scheme will cover fixed costs incurred during the period from 1 March 2020 until 30 June 2021 provided that in this period governmental COVID-19 related measures⁵ remain in force⁶; the scheme will end earlier if governmental COVID-19 related measures would be lifted. Nevertheless, in any event the aid may only be granted under the measure as from the notification of its approval by the Commission until no later than 30 June 2021.

2.6. Beneficiaries

- (14) The beneficiaries of the measure are private legal entities of all sizes registered in the Danish Central Business Register (CVR)⁷ as of 9 March 2020 and public entities having an economic activity⁸ for which Covid-19 measures have resulted in a decline of turnover with reference to the same period in 2019. Danish authorities confirmed that financial institutions are excluded as eligible final beneficiaries.
- (15) In order to be eligible under the scheme the beneficiary must demonstrate that, during the eligible period (recital (13)), it has monthly fixed costs amounting to a minimum of DKK 4 000 (EUR 530).
- (16) Aid may not be granted under the measure to medium⁹ and large enterprises that were already in difficulty within the meaning of the Block Exemption Regulations¹⁰ on 31 December 2019. Aid may be granted to micro and small

⁴ Exchange rate DKK 1= EUR 0.134, 15/12/2020.

⁵ As examples: restriction on operating hours, full closure of businesses, restriction on the number of people at private and public gatherings, etc.

⁶ Beneficiaries will also be eligible to receive aid in a short transition period immediately after the end of such measures (up to 1 month), provided that the aid is granted no later than 30 June 2021

⁷ <https://datacvr.virk.dk/data/index.php?q=forside&language=en-gb>

⁸ Denmark referred that, in order to be eligible, public entities must have 50% or more of their turnover derived from non-public fund.

⁹ 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, 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, and Annex I to 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, 24.12.2014, p. 37.

¹⁰ As defined in Article 2(18) of Regulation (EU) No 651/2014, Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation (EU) No 1388/2014

enterprises that were in difficulty within the meaning of the Block Exemption Regulations 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 aid¹¹ or restructuring aid.¹²

2.7. Sectoral and regional scope of the measure

- (17) The measure is open to all sectors, except the financial sector. It applies to the whole territory of Denmark. The scheme may be applied locally if public measures are implemented only locally.

2.8. Basic elements of the measure

- (18) The objective of the scheme is to contribute to the fixed costs of undertakings for which the COVID-19 outbreak has resulted in a decline in turnover caused by the suspension or reduction of their business activity.
- (19) Eligible undertakings must have suffered a decline in turnover, as a result of the governmental COVID-19 measures, of a pre-determined magnitude, during the eligible period with reference to the same period in 2019.
- (20) The aid amount is calculated as a percentage of the fixed costs borne by the beneficiaries during the eligible period; the percentage is determined based on the level of the turnover decline, all figures being checked by the Danish Business Authority.
- (21) The notified measure is part of an overall Governmental package to cover the fixed costs of undertakings affected by the economic consequences related to the Covid-19 outbreak. The overall package for fixed costs will consist of two more schemes:
- (a) A compensation scheme for fixed costs approved under article 107(2)(b) TFEU for undertakings that are affected by a Governmental prohibition to operate¹³;
 - (b) An umbrella scheme under the provisions of Section 3.12 of the Temporary Framework that will allow aid for undertakings in the form of support for uncovered fixed costs, defined as the losses of undertakings from their profit and loss statements¹⁴.

¹¹ 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.

¹² 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.

¹³ Temporary targeted compensation scheme SA.57930 for companies affected by Covid-19 prohibitions (bans and cancelled events) as prolonged with state aid decision SA.59055.

¹⁴ SA.60094 (2020/N) - COVID-19: Compensation scheme for fixed costs (umbrella scheme under TF3.12) which is notified in parallel to the Commission.

- (22) Denmark confirmed that aid under the three measures cannot be granted to an undertaking for the same eligible costs borne in the same eligible period.
- (23) Denmark confirmed that the aid may be granted provided its nominal value, for all measures granted in accordance with Section 3.1 of the Temporary Framework, does not exceed EUR 800 000 per undertaking, EUR 120 000 per undertaking active in fishery and aquaculture sectors and EUR 100 000 per undertaking in the sector of primary production of agricultural products (all figures used being expressed in gross, that is before any deduction of tax or other charges).
- (24) Denmark also confirmed that where the aid is granted to undertakings active in the processing and marketing of agricultural products, it 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.
- (25) Denmark confirmed that aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market.
- (26) Furthermore, Denmark confirmed that the aid granted to undertakings active in the fishery and aquaculture sectors does not concern any of the categories of aid referred to in Article 1(1)(a) to (k) of Commission Regulation (EU) No 717/2014¹⁵.
- (27) Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Denmark will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a), Denmark undertakes that the overall maximum amount of EUR 120 000 shall not be exceeded per undertaking.

2.9. Cumulation

- (28) The Danish authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹⁶ or the Block Exemption

¹⁵ 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).

¹⁶ 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 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, 26.4.2012, p. 8).

Regulations¹⁷ provided the provisions and cumulation rules of those Regulations are respected.

- (29) The Danish authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.
- (30) The Danish 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.
- (31) The Danish 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 points 22(a) and 23(a) of that framework, will be respected.
- (32) Denmark confirmed that any aid approved by the Commission under Article 107(3)(b) TFEU or the Temporary Framework which is granted for or attributable to specific eligible costs, cannot be cumulated with aid under Article 107(2)(b) TFEU for the same eligible costs. In addition, Denmark confirmed that aid under the notified measure cannot be cumulated with aid under the umbrella scheme under the provisions of Section 3.12 of the Temporary Framework (see point 21(b)) received for the same eligible costs borne in the same eligible period.

2.10. Monitoring and reporting

- (33) The Danish 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 and EUR 10 000 in the agricultural and fisheries sector on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁸).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (35) 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.

¹⁷ Regulation (EU) No 651/2014, Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation (EU) No 1388/2014.

¹⁸ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

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.

- (36) The measure is imputable to the State, since it is administered by the Danish Business Authority (recital (10)) and it is based on the Danish budget law (recital (9)). It is financed through State resources, since it is financed by public funds (recital (12)).
- (37) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (8)). The measure thus confers on those beneficiaries an advantage that they would not have received under normal market conditions.
- (38) The advantage granted by the measure is selective, since it is awarded only to undertakings having suffered a decline of turnover during the eligible period due to COVID-19 measures with reference to the same period in 2019 (recitals (14) and (15)), and it excludes the financial sector (recital (17)). In addition, the measure excludes (subject to certain exceptions) undertakings that were in difficulty already on 31 December 2019 (recital (16)).
- (39) 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.
- (40) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Danish authorities do not contest that conclusion.

3.3. Compatibility

- (41) 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.
- (42) 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*”.
- (43) 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*”.
- (44) The measure aims at covering acute lack of liquidity for the undertakings concerned, and preserving the continuity of economic activity at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak which is affecting the wider economy and leads to severe disturbances of the real economy of Denmark.

- (45) The measure is one of a series of measures conceived at national level by the Danish authorities to remedy a serious disturbance in their economy. 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.
- (46) 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 (8)).
The overall nominal value of the direct grants shall not exceed EUR 800 000 per undertaking (recital (23)); all figures used must be gross, that is, before any deduction of tax or other charges (recital (23)). 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 (11). The measure therefore complies with point 22(b) of the Temporary Framework;
 - As stated in recital (16):
 - o Aid may not be granted under the measure to medium¹⁹ and large enterprises that were already in difficulty on 31 December 2019. The measure therefore complies with point 22(c) of the Temporary Framework;
 - o 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 aid²⁰ or restructuring aid²¹. 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 (24)). The measure therefore complies with point 22(e) of the Temporary Framework.

¹⁹ As defined in Annex I to Commission Regulation (EU) No 651/2014, Annex I to Commission Regulation (EU) No 702/2014 1, and Annex I to Commission Regulation (EU) No 1388/2014.

²⁰ 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.

²¹ 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.

- The overall nominal value of the direct grants does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector (recital (23)) or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (23)). The measure therefore complies with point 23(a) of the Temporary Framework;
- Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (25)). The measure therefore complies with point 23(b) of the Temporary Framework;
- Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (26)). The measure therefore complies with point 23(c) of the Temporary Framework.
- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Denmark will ensure, by appropriate means such as separation of accounts that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking (recital (27)). The measure therefore complies with point 23bis of the Temporary Framework.

(47) The Danish authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (33)). The Danish 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 (28) to (32)).

(48) 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