EUROPEAN COMMISSION

Brussels, 17.12.2020
C(2020) 9407 final

In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]

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Subject: State Aid SA.60071 (2020/N) – Germany Covid-19: Portfolio guarantee for trade credit insurance (Amendment)

Excellency,

1. PROCEDURE

(1) By electronic notification of 14 December, Germany notified, pursuant to Article 108(3) TFEU, an amendment of the State aid scheme SA.56941 "Germany – COVID-19: First-loss portfolio guarantee on trade credit insurance" (hereinafter: "the existing aid scheme"), approved by Commission decision C(2020) 2372 final of 13 April 2020 (hereinafter: "the initial decision").

(2) Germany exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958¹, and to have this Decision adopted and notified in English.

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

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2. **DESCRIPTION OF THE MEASURE AND THE PROPOSED AMENDMENT**

(3) The existing aid scheme aims at stabilising the system of trade credit insurances and therefore the wider economy by providing a safety net that enables to maintain supply chains between companies. In particular, it ensures that trade credit insurers ("TCIs") retain coverage limits for trade credit originated in the real economy, which is important for the liquidity management in the real economy.

(4) Germany explains that the existing aid scheme has been overall successful, as major disturbances in the market for trade credit insurance could be avoided. Given that the ongoing outbreak of COVID-19 continues to create extraordinarily high uncertainty in the economy, the existing support should be prolonged.

(5) Germany explains that there is no expectation of a fast recovery within quarter four of 2020 nor quarter one or two of 2021 and consequently, a large number of companies operating in Germany continues to face liquidity problems and a credit crunch unless provided with continued support in the form of trade credit insurance. There is still a very high degree of uncertainty in the market, and as government support packages start to be phased out, increasing numbers of bankruptcies in 2021 may be expected.

(6) According to Germany, the very high uncertainty in the economy and the market for credit insurance leads to a situation where [0-35]% of limits are at risk and may not be upheld by TCIs in the absence of the measure. In particular, the effects of the pandemic are still prevalent and additional public health measures cannot be excluded at this stage, which may affect policyholders that have already exploited significant parts of their reserves. TCIs expect an increasing trend of insolvency rates in the German economy for 2021 that has already started. This trend has to be seen also in the context of the temporary exemptions from insolvency rules that have already or are about to expire.

(7) The existing aid scheme is based on Article 107(3)(b) TFEU to remedy a serious disturbance of the economy. The Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework")\(^2\) is not applicable, because guarantees on credit insurance activities are not covered therein. However, the initial scheme was designed and approved in analogy to the principles set out in the Temporary Framework.

(8) Since the fourth amendment\(^3\), measures under Section 3.2 of the Temporary Framework may be granted until 30 June 2021 at the latest. With its notification, Germany intends to prolong the existing aid scheme to cover transactions up to that same date. Following the amendment, the contract term for the prolonged scheme will run from 1 January 2021 until 30 June 2021. As in the existing aid scheme, the quota share cover remains in place after the end of 30 June 2021 (according to the risk attaching principle), provided that the insured event has

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\(^2\) 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. 1–9, as amended.

occurred between 1 January 2021 and 30 June 2021 and that the claim will be received by the obligor on 30 June 2027 at the latest.

(9) In addition, Germany explains that it intends to amend the existing aid scheme to better cater for the situation that the TCIs will be facing in 2021 and ensure closer alignment with the development of other similar trade credit insurance schemes in other Member States, thus ensuring a continued level playing field in the Internal Market.

(10) For this purpose, Germany intends to adjust the existing aid scheme from a system providing support structured along two thresholds, to a simple quota share model with a 90/10 split of risk and premia between the German State and the TCIs, covering the first 6 months of 2021. In this adjusted scheme, the TCIs thus undertake a greater part of the risk, as the 100% loss piece will be replaced by the proportionate pro-rata share of risk. While the overall maximum guarantee volume of EUR 30 billion as approved in the initial decision will apply also for the prolonged scheme as of 1 January 2021, TCIs will have to cover 10% and the German State 90% of all claims up to this theoretical maximum amount under the amended scheme, covering transactions between 1 January and 30 June 2021. Germany relates this amount to the overall coverage volume, which slightly increased since the initial decision to about EUR 420 billion, also due to the fact of additional TCIs participating under the scheme.

(11) In return for the higher risk taken by participating insurers, they will be allowed to retain a part of the premia (10%) in line with the share of the risk taken. The gross premia will therefore be distributed with 10% to the insurers and 90% to the German State. As in the existing aid scheme, an administration fee of 35% of the remaining 90% premia (i.e. 31.5%) will also be retained by the TCIs for the duration of the amended scheme.

(12) Furthermore, Germany notifies that an additional clause will be introduced in the new contracts with TCIs to exclude the risk of overcompensation in case TCI participate also under comparable schemes provided by other Member States.

(13) Finally, Germany clarifies in relation to recital (15)(iii.) of the initial decision that the exceptional reduction of limits in case they are no longer needed due to a reduction in turnover may only be used in mutual agreement between the TCI and the policyholder.

(14) All remaining elements of the existing aid scheme remain in place. This includes, but is not limited to, (i) the commitments provided by participating TCIs, which will have to uphold coverage limits as applicable on 31 December 2019, subject only to the limited exceptions provided for in the initial decision; (ii) the fact that the measure is open to all TCIs active in Germany for trade credit originated by policyholders with activities in Germany and covering obligors inside and outside of Germany; and (iii) reporting requirements.

(15) The legal basis for the measure in 2021 will be the same as for the existing aid scheme, i.e. the Federal Budget Code (Bundeshaushaltsordnung). Like the existing aid scheme, the measure will be implemented by way of bilateral agreements between the Federal Ministry of Finance and the participating credit insurers.
3. ASSESSMENT OF THE PROPOSED AMENDMENT

3.1. Existence of aid

(16) As already set out in the initial decision⁴, the scheme constitutes State aid within the meaning of Article 107(1) TFEU. The notified amendment of the existing aid scheme does not affect the Commission assessment in that respect, since it only consists in a change of the coverage period and risk sharing elements.

3.2. Lawfulness of the aid

(17) The amended aid scheme was notified to the Commission on 14 December 2020. It has not yet been put into effect. Therefore, Germany has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of aid

(18) In the initial decision, the Commission has assessed the existing aid scheme based on general criteria for compatibility under Article 107(3)(b) TFEU, using the Temporary Framework as general guidance as far as appropriate.

(19) The notified amendment does not change the objective of the existing aid scheme. It merely concerns two elements, while all other parameters are kept and were assessed in the initial decision. In particular,

(a) the scheme will be prolonged to cover transactions between 1 January 2021 and 30 June 2021, with a maximum guarantee volume of EUR 30 billion; and

(b) the structure of the scheme will be amended as of 1 January 2021 to follow a uniform quota share model of risk and premia whereby the State covers 90% of the risk up to the maximum coverage volume of EUR 30 billion and receives 90% of premia net of 35% operating costs.

(20) As regards the prolongation to cover transactions up to 30 June 2021, the Commission considers that such a continuation of coverage is in line with Section 3.2 of the Temporary Framework (following the fourth amendment).

(21) The Commission further considers that the reasoning of the initial decision (recitals (59) to (97)), namely to avoid a situation where TCIs substantially reduce limits as normal risk remediation technique, continues to be valid.

(22) In light of the above, and in particular the Temporary Framework (following the fourth amendment), which continues to be applied in analogy, the proposed prolongation to cover transactions until 30 June 2021 is appropriate, necessary, and proportional. This applies also to the corresponding prolongation of the latest date on which claims can be submitted from 31 December 2026 to 30 June 2027.

(23) As regards the proposed change from the existing aid scheme that was structured along two thresholds to a single quota share model, the Commission considers that this leads to a higher share of risk taken by participating TCIs and therefore a

⁴ See recitals (43) – (52) of the initial decision.
lower coverage provided by the State. The adjustment of the premia sharing in line with the risk sharing, based on the same quota, is justified to balance the additional risk taken by TCIs as compared to the initial decision. Therefore, the Commission considers that the conclusion of the initial decision is not affected by this proposed amendment.

(24) The additional safeguard to avoid overcompensation (see recital (12) above), the maximum guarantee volume (see recital (10) above) as well as the clarification about the use of the exceptions available to TCI to adjust limits (see recital (13) above) do not affect the outcome of the assessment in the initial decision.

(25) The Commission finally notes that the remaining elements of the scheme, including the commitments provided by participating TCIs remain in place, which will ensure that the available coverage for the real economy will be further sustained.

(26) In view of the above, the Commission considers that the notified prolongation and other amendments do not alter the conclusions on the compatibility of the existing aid scheme.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the alterations of the aid scheme 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.

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Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President