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PUBLIC VERSION

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Subject: State Aid SA.60379 (2020/N) – Lithuania
Direct COVID-19 loans

Excellency,

1. PROCEDURE

(1) By electronic notification of 17 December 2020, Lithuania notified aid in the form of loans with subsidised interest rates ("*Direct loans for enterprises and businesspersons, to whom the restrictions are applied because of the state of emergence declared due to the hazard of COVID-19 spreading*", "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]

[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) Lithuania 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[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) Lithuania considers that the COVID-19 outbreak has started to affect 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) From 9 October 2020, the government of Lithuania decided to declare quarantine on certain districts of Lithuania. The confinement measures were strengthened on 7 November 2020 when the government declared quarantine on the entire territory of Lithuania to control the spread of COVID-19. Restrictions for undertakings active in various sectors became applicable during the quarantine. The subsidised interest loan measure is intended to support the Lithuanian economy in response to the outbreak. The aim is to facilitate the access to finance of enterprises facing cash shortages and improving the liquidity conditions in the economy.

(5) Lithuania 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 3.3 of the Temporary Framework.

2.1. The nature and form of aid

(7) The measure provides aid in the form of loans with subsidised interest rates.

2.2. Legal basis

(8) The legal basis for the measure is the Draft Order No. 4 of the Minister of the Economy and Innovation of Lithuania approving the use of financial instrument, "*Direct COVID-19 loans*".

2.3. Administration of the measure

(9) The Ministry of the Economy and Innovation of Lithuania is responsible for administering the measure.

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

2.4. Budget and duration of the measure

(10) The budget for the scheme is EUR 30 million, which is also the maximum amount of loans that can be granted under the measure.

(11) Aid may be granted under the measure as from its notification by the Commission until no later than 30 June 2021.

2.5. Beneficiaries

(12) The final beneficiaries of the measure are small and medium sized enterprises (SMEs) and large enterprises[3] active in Lithuania. However, financial institutions are excluded as eligible final beneficiaries. In addition, eligible beneficiaries must:

(a) have experienced a decline of more than 30% in their turnover between 1 March and 31 October 2020 compared to the same period in 2019; and,

(b) for cases where no income was generated between 1 March and 31 October 2020, pursue economic activities that are restricted due to the quarantine measures as outlined in the Resolution No 1226 adopted by the Lithuanian government on 4 November 2020.

(13) Aid may not be granted under the measure to medium[4] and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[5] on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER 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[6] or restructuring aid.[7]

(14) Aid is granted directly through *Investicijų ir verslo garantijos* (hereinafter "Invega") [8].

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[3] 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.

[4] 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.

[5] As defined in Article 2(18) of 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.

[6] 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.

[7] 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.

[8] Invega is a financial entity incorporated by the State with the status of national promotional institution since 17 October 2018, which does not pursue any commercial activities.

2.6. Sectoral and regional scope of the measure

(15) The measure is open to all sectors except the financial sector and the agricultural[9], forestry, fishery and aquaculture sectors[10]. It applies to the whole territory of Lithuania.

2.7. Basic elements of the measure

(16) The loans can only finance the working capital needs of the beneficiary.

(17) The duration of the loan is limited to a maximum of six years.

(18) The loan principal will not exceed:

- the double of the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the company site but formally in the payroll of subcontractors) for 2019 or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or

- 25% of the total turnover of the beneficiary in 2019.

(19) In any case, the loan principal will not exceed an overall cap of EUR 100 000 per beneficiary.

(20) A fixed annual interest rate shall be applied, depending on the loan's original term and the status of the beneficiary. The interest rate is composed of the base rate (1 year IBOR as published by the Commission)[11] available on 1 January 2020 plus a credit risk margin as described in the table below.

Beneficiary	**Loan term up to 12 months (inclusive)**	**Loan term from 13 up to 36 months (inclusive)**	**Loan term from 37 up to 72 months (inclusive)**
SME	25 basis points	50 basis points	100 basis points
Large enterprises	50 basis points	100 basis points	200 basis points

Table 1: Annual credit risk margins per type of beneficiary and loan duration

(21) The Lithuanian authorities indicate that:

[9] The exclusion of the agricultural sector comprises the production, processing and marketing of agricultural products (Article 2(3) of 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 on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1).

[10] The exclusion of the fishery and aquaculture sector comprises the production, processing and marketing of fishery and aquaculture products (Article 2(1)(a) of 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).

[11] Base rates calculated in accordance with Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

(a) in any case, the minimum all in interest rate (base rate plus the credit risk margins) should be at least 10 basis points per year;

(b) the resulting interest rates, taking into account the applicable base rate (-31 basis points) and the credit risk margin described in the previous recital, are the following:

Beneficiary	**Loan term up to 12 months (inclusive)**	**Loan term from 13 up to 36 months (inclusive)**	**Loan term from 37 up to 72 months (inclusive)**
SME	10 basis points	19 basis points	69 basis points
Large enterprises	19 basis points	69 basis points	169 basis points

Table 2: Resulting annual interest rates per type of beneficiary and loan duration

(22) A loan with an original term of less than 72 months may be extended to the maximum term (72 months), if requested by the borrower pursuant to its original loan contract, who agrees to pay the extension fee fixed by the lender. If the loan term is extended, the interest rates for the entire loan period should be recalculated according to the table above taking into account the new duration of the loan. The borrower may repay the loan prematurely, without incurring additional fees.

(23) The borrower has to start repaying the loan according to the schedule submitted to the borrower as part of the loan contract six months after the loan contract has been signed. Upon the borrower’s request and the lender’s consent, the repayment may be postponed for an additional period of up to six months during the validity period of the loan contract, if the borrower agrees to pay the fee for changing of the loan contract conditions fixed by the lender.

2.8. Cumulation

(24) The Lithuanian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulation[12] or the GBER provided the provisions and cumulation rules of those Regulations are respected.

(25) The Lithuanian 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 Lithuanian authorities confirm that aid granted under section 3.2 of the Temporary Framework will not be cumulated with aid granted for the same underlying loan principal under section 3.3 of that framework and vice versa. Aid granted under section 3.2 and section 3.3 may be cumulated for different loans provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 25(d) or in point 27(d) of the Temporary Framework.

[12] 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).

(27) A beneficiary may benefit in parallel from multiple schemes under section 3.3 provided the overall amount of loans per beneficiary does not exceed the ceilings set out in point 27(d) of the Temporary Framework.

2.9. Monitoring and reporting

(28) The Lithuanian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework.

3. ASSESSMENT

3.1. Lawfulness of the measure

(29) By notifying the measure before putting it into effect, the Lithuanian 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 and Innovation of Lithuania and it is based on the Draft Order No. 4 of the Minister of the Economy and Innovation of Lithuania. It is financed through State resources, since it is financed by public funds.

(32) The measure confers an advantage on its beneficiaries in the form of subsidised interest rate loans. The measure thus relieves those beneficiaries of costs which would have had to be borne by them under normal market conditions.

(33) The advantage granted by the measure is selective, since it is awarded only to certain undertakings indicated in recital (12) and (15) and excluding the financial sector.

(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 Lithuanian authorities do not contest that conclusion.

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 facilitating the access of undertakings to external finance 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 Lithuania.

(40) The measure is one of a series of measures conceived at national level by the Lithuanian authorities to remedy a serious disturbance in their economy. The importance of the measure to stimulate lending to enterprises during the COVID-19 outbreak and to preserve employment and economic continuity is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Lithuanian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of loans with subsidised interest rates*") described in section 3.3 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 applicable interest rates for loans granted under the measure are fixed for the entire duration of the loan, and equal to the base rate (1 year IBOR or equivalent as published by the Commission)[13] available on 1 January 2020 plus credit margins that are equal to or higher than (as the annual credit margins apply for the entire duration of the loan) the minimum levels set out in point 27(a) of the Temporary Framework, as detailed in recital (20). The measure therefore complies with point 27(a) of the Temporary Framework.

- The loan contracts are signed by 30 June 2021 at the latest and are limited to a maximum of six years (recital (17)). The measure therefore complies with point 27(c) of the Temporary Framework.

- The maximum loan amount per beneficiary is limited in line with point 27(d) of the Temporary Framework (recital (18)).

[13] Base rates calculated in accordance with Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

- Loans granted under the measure relate to working capital needs (recital (16)). The measure therefore complies with point 27(f) of the Temporary Framework.

- Aid may not be granted under the measure to medium[14] and large enterprises that were already in difficulty on 31 December 2019 (see recital (13)). The measure therefore complies with point 27(g) 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[15] or restructuring aid[16] (see recital (13)). The measure therefore complies with point 27(g)bis of the Temporary Framework.

- The cumulation rules set out in point 26bis of the Temporary Framework are respected (see recital (26)).

(42) The Lithuanian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (28)). The Lithuanian 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 (27)).

(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.

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14 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.

15 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.

16 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.

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

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION