EUROPEAN COMMISSION

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PUBLIC VERSION

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**Subject: State Aid SA.63549 (2021/N) – Portugal
COVID-19: Direct grant scheme and loan guarantee scheme
(amendments to SA.56873)**

Excellency,

1. PROCEDURE

(1) By electronic notification of 23 July 2021, Portugal notified amendments (the "notified amendments") to State aid measure SA.56873 (2020/N) – Portugal COVID-19: Direct grant scheme and loan guarantee scheme, as amended by SA.59795 and SA.62505 (collectively, the "existing aid scheme")[1] under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the "Temporary Framework").[2]

[1] The Commission approved SA.56873 (2020/N) – Portugal COVID-19: Direct grant scheme and loan guarantee scheme by Decision C(2020) 2229 final of 4 April 2020 (the "initial decision") and amended it by Decision C(2020) 9615 final, SA.59795 (2020/N) of 22 December 2020 (the "first amendment decision") and by Decision C(2021) 3206 final, SA.62505 (2021/N) of 30 April 2021 (the "second amendment decision").

[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), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

S. Ex.ª o Ministro dos Negócios Estrangeiros
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(2) Portugal 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 NOTIFIED AMENDMENTS

(3) The existing aid scheme comprises a direct grant scheme and a State guarantee scheme for investment and working capital loans granted through commercial banks. The existing aid scheme is accessible to small and medium-sized enterprises ("SMEs") and large companies.

(4) As regards the State guarantee scheme that Portugal wishes to amend, the existing aid scheme provides for guarantee coverage of 80% or 90% on new loans whose total amounts comply with point 25(d) of the Temporary Framework. The maximum duration of the guarantees is six years. The guarantee fee premiums and the duration of the scheme is in line with section 3.2 of the Temporary Framework.

(5) Portugal wishes to amend the following elements of the State guarantee scheme:

(a) provide for guarantee coverage lower than 80% for new loans with a maturity of up to 6 years. The minimum levels for guarantee premiums for new loans with maturity of up to six years with coverage below 80% is set on the basis of the following table that complements recital (19) of the initial decision:

Guarantee coverage	Type of recipient	For 1st year	For 2nd-3rd year	For 4th-6th year
75%	SMEs	15 bps	25 bps	70 bps
	Large enterprises	25 bps	70 bps	170 bps
70%	SMEs	15 bps	15 bps	50 bps
	Large enterprises	15 bps	50 bps	150 bps
60%	SMEs	15 bps	15 bps	35 bps
	Large enterprises	15 bps	35 bps	135 bps
50%	SMEs	15 bps	15 bps	25 bps

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

	Large enterprises	15 bps	25 bps	125 bps

(b) increase the maximum duration of the guarantees under the existing aid scheme from six to eight years for new loans. The minimum levels for guarantee premiums for loans with maturity of up to eight years is set on the basis of the following table:

Guarantee coverage	Type of recipient	For 1st year	For 2nd-3rd year	For 4th-6th year	For 7th-8th year
90%	SMEs	75 bps	100 bps	150 bps	250 bps
	Large enterprises	100 bps	150 bps	250 bps	350 bps
80%	SMEs	50 bps	80 bps	135 bps	230 bps
	Large enterprises	80 bps	130 bps	240 bps	340 bps
75%	SMEs	35 bps	65 bps	125 bps	215 bps
	Large enterprises	65 bps	125 bps	235 bps	335 bps
70%	SMEs	20 bps	50 bps	115 bps	200 bps
	Large enterprises	50 bps	115 bps	230 bps	330 bps
60%	SMEs	15 bps	15 bps	90 bps	170 bps
	Large enterprises	15 bps	90 bps	215 bps	315 bps
50%	SMEs	15 bps	15 bps	55 bps	115 bps
	Large enterprises	15 bps	55 bps	200 bps	295 bps

(c) amend the existing aid scheme to cover guarantees on existing loans granted before the COVID-19 outbreak (i.e. loans granted on or before 26 March 2020) to undertakings in or exposed[4] to the most affected sectors, such as tourism and hospitality, cultural activities, and some

[4] Undertakings with a significant part of their 2019 turnover generated from undertakings in the most affected sectors.

segments of the retail and industrial activities. These beneficiaries should be economically viable undertakings with sustainable debt levels in 2019.

The guarantee coverage of such existing loans is 25% of the existing loan, whose overall amount complies with point 25(d) of the Temporary Framework under the same conditions as for new loans under the existing aid scheme. These guarantees are granted upon the condition that the lender agrees with the undertakings involved to grant grace periods of 6 to 24 months and extension of maturities of the existing loans. The minimum levels for guarantee premiums for existing loans with maturity of up to six and up to eight years is set on the basis of the following tables depending on the type of recipient, the guarantee coverage and the guarantee duration:

– For loans with a maturity of up to 6 years:

Guarantee coverage	Type of recipient	For 1^{st} year	For 2^{nd}-3^{rd} year	For 4^{th}-6^{th} year
25%	SMEs	15 bps	15 bps	15 bps
	Large enterprises	15 bps	15 bps	75 bps

– For loans with a maturity of up to 8 years:

Guarantee coverage	Type of recipient	For 1^{st} year	For 2^{nd}-3^{rd} year	For 4^{th}-6^{th} year	For 7^{th}-8^{th} year
25%	SMEs	15 bps	15 bps	25 bps	75 bps
	Large enterprises	15 bps	25 bps	125 bps	225 bps

(6) Apart from the notified amendments, Portugal confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.

(7) The legal basis for the notified amendments is (i) Article 13 of Decree-Law 10.J/2020 of 26 March 2020 establishing exceptional measures to protect the credits of families, companies, private social solidarity institutions and other entities of the social economy, and a special regime of State guarantees regarding the COVID-19 disease pandemic; and (ii) Decree-Law 211/98 of 16 July 1998 regulating the activity of mutual guarantee companies, as amended by Decree-Law 157/2014 of 24 October 2014, Decree-Law 100/2015 of 2 June 2015 and Decree-Law 309-A/2007 of 7 September 2007.

(8) Aid may be granted under the existing aid scheme, as amended, as from the notification of the Commission's approval of the notified amendments.

3. ASSESSMENT

3.1. Lawfulness of the measure

(9) By notifying the amendments before putting them into effect, the Portuguese authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

(10) 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 be liable to affect trade between Member States.

(11) The existing aid scheme constitutes State aid in the meaning of Article 107(1) TFEU for the reasons set out in recitals (34) to (39) of the initial decision. The notified amendments do not affect that conclusion. The Commission therefore refers to the respective assessment of the initial decision and concludes that the existing aid scheme, as amended, constitutes State aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

(12) The existing aid scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets the conditions of section 2 and sections 3.2 and 3.4 of the Temporary Framework for the reasons set out in recitals (41) to (46) and (48) to (49) of the initial decision, recitals (16) to (29) of the first amendment decision and recitals (15) to (17) of the second amendment decision. The Commission therefore refers to the respective assessment of the aforementioned decisions.

(13) The notified amendments do not affect that conclusion. In particular:

- The amendment outlined in recital (5)(b) regarding the possibility to grant guarantees of up to eight years on new loans complies with point 25(f), combined with point 25(b) of the Temporary Framework. Those guarantees cover up to 90% of the loan principal and losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State. Furthermore, when the size of the loan decreases over time, the guaranteed amount decreases proportionally.

- The amendments set minimum levels for guarantee premiums on new loans with a maturity of up to six and eight years (recitals (5)(a) and (5)(b)) that are modulated on the basis of the type of recipient, the guarantee coverage and the guarantee duration. These minimum levels comply with the guidance provided in point 25(b) of the Temporary Framework and the Commission's case practice concerning the modulation of guarantee premiums[5].

- The amendment outlined in recital (5)(c) to cover existing loans granted before the COVID outbreak does not affect the compatibility conditions set out by the Temporary Framework. The guarantee premiums on existing loans are modulated on the basis of the type of recipient, the guarantee coverage and the guarantee duration. They comply with the guidance provided in point 25(b) of the Temporary Framework. This amendment is limited to undertakings in or exposed to the most affected sectors, such as tourism and hospitality, cultural activities, and some segments of the retail and industrial activities.

- As the aid is channelled through credit institutions, in order to ensure that the advantage is passed on to the final beneficiaries by the financial intermediaries, the safeguards referred to in recitals (22), (23) and (46) – seventh bullet point of the initial decision and the specifications in recital (9)(e) of the first amendment decision continue to apply.

- Furthermore, guarantees on existing loans granted before the COVID outbreak are granted upon the condition that the undertakings involved will agree with the lenders on grace periods of 6 to 24 months and extension of maturities of the existing loans. It is also noted that the State guarantee's coverage does not exceed 25% of the loan principal and thus the financial intermediaries continue to have a significant exposure to the existing loans eligible for this scheme. The measure therefore complies with points 28 to 31 of the Temporary Framework.

(14) Apart from the notified amendments, Portugal confirms that no further amendments are proposed to the existing aid scheme and that all other conditions of that scheme remain unaltered.

(15) The Commission therefore considers that the notified amendments are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU, since they meet all the relevant conditions of the Temporary Framework. The Commission therefore considers that the notified amendments do not alter the Commission's conclusion on the compatibility of the existing aid scheme in the initial decision.

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5 See the "Summary of case practice on modulation under point 25 (b) of the Temporary Framework" available on https://ec.europa.eu/competition-policy/system/files/2021-03/summary_of_case_practice_on_modulation_under_point_25%28b%29_of_TF.pdf

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the scheme, as amended, 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