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**Subject: State Aid SA.100205 (2022/N) – Portugal
COVID-19: Direct grants to micro, small and medium-sized
enterprises in specific sectors established in the Outermost Region of
the Azores (“APOIAR.PT Açores”) - November 2021 to January 2022**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 18 February 2022, Portugal notified aid in the form of limited amounts of aid (Programa de apoio à liquidez APOIAR.PT Açores, the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹
- (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 1/1958² and to have this Decision adopted and notified in English.

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 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

² 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

- (3) Portugal considers that the COVID-19 pandemic continues 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (4) The objective of the measure is to support micro, small and medium-sized enterprises active in the sectors referred to in recital (14) with head offices or permanent establishments in the outermost region of the Azores that suffered losses due to the COVID-19 pandemic and therefore face urgent liquidity needs.
- (5) The measure complements four previous measures: (i) SA.61758 (2021/N), approved by the Commission on 10 February 2021³, which referred to the fall in turnover in the first three quarters of 2020; (ii) SA.62023 (2021/N) approved by the Commission on 1 March 2021⁴, which referred to the fall in turnover in the last quarter of 2020; (iii) SA.62587 (2021/N), approved by the Commission on 21 April 2021⁵, which referred to the fall in turnover in the first quarter of 2021; and SA.63378 (2021/N), approved by the Commission on 28 June 2021⁶, which referred to the fall in turnover in the second quarter of 2021.
- (6) Portugal confirms 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.
- (7) 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

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

2.2. Legal basis

- (9) The legal basis for the measure is the draft Resolution of the Council of the Government, which will be published in the Azores Official Journal. Article 7(4) of this draft Resolution establishes that aid may only be granted after the notification of the Commission's decision approving the measure.

³ Commission Decision C(2021) 997 final (OJ C 260, 2.7.2021, p. 24).

⁴ Commission Decision C(2021) 1505 final (OJ C 260, 2.7.2021, p. 28).

⁵ Commission Decision C(2021) 2885 final (OJ C 260, 2.7.2021, p. 38).

⁶ Commission Decision C(2021) 4895 final (OJ C 260, 16.7.2021, p. 27).

2.3. Administration of the measure

- (10) The Regional Directorate for Investment and Competitiveness⁷ is responsible for administering the measure.

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is EUR 5 million.
- (12) The measure will be financed by the European Structural and Investment Funds (ESIF), to the extent possible⁸, and/or national resources.
- (13) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 30 June 2022. Applications may be submitted until 30 April 2022.

2.5. Beneficiaries

- (14) The beneficiaries of the measure are micro, small and medium-sized enterprises⁹ that had been legally established on 1 January 2020 and that are active in the outermost region of the Azores in the most severely impacted sectors¹⁰, such as:
- (a) Commerce and services open to consumers
 - (b) Cultural activities
 - (c) Touristic activities, hospitality sector and food and beverage service activities
- (15) Financial institutions and undertakings active in the processing and marketing of agricultural products¹¹ and in the primary production of agricultural products, fishery and aquaculture sectors are excluded as eligible beneficiaries.
- (16) Aid may not be granted under the measure to medium¹² enterprises that were already in difficulty within the meaning of the GBER¹³ on 31 December 2019.

⁷ Direção Regional de Apoio ao Investimento e à Competitividade (<https://portal.azores.gov.pt/web/draic>).

⁸ Subject to a Commission decision on the implementation of REACT-EU resources.

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 ("GBER").

¹⁰ Those sectors are more precisely defined in Annex II of the draft Resolution of the Council of the Government, by reference to the codes of the Portuguese Classification of Economic Activities.

¹¹ As defined in Article 2(6) and Article 2(7) of Commission Regulation (EC) 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.

¹² As defined in Annex I to the GBER.

¹³ As defined in Article 2(18) of the GBER.

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 aid¹⁴ or restructuring aid.¹⁵

2.6. Sectoral and regional scope of the measure

- (17) The measure is limited to micro, small and medium-sized enterprises active in the sectors mentioned above (recital (14)). It does not apply to the financial sector nor to the processing and marketing of agricultural products and the primary production of agricultural products, fishery and aquaculture sectors (recital (15)). It applies to the outermost region of the Azores.

2.7. Basic elements of the measure

- (18) Undertakings are eligible if they can prove a fall in turnover of at least 25% in the period from 1 November 2021 to 31 January 2022 when compared to the period from 1 November 2019 to 31 January 2020. Undertakings that started operations after 1 November 2019 are eligible if they can prove a reduction in the average monthly turnover of at least 25% in the period from 1 November 2021 to 31 January 2022, compared with the monthly average of the period of activity up to 29 February 2020, taking into account only the complete calendar months. A certified accountant responsible for the company's accounts must certify the fall in turnover. These eligibility criteria are further specified under Article 5.1 of the legal basis.
- (19) Eligible beneficiaries may receive a direct grant equal to 20% of the fall in turnover, established in accordance with the method described in recital (18), with a maximum aid amount of EUR 5 000 for micro enterprises, EUR 20 000 for small enterprises and EUR 50 000 for medium-sized enterprises.
- (20) For eligible micro and small enterprises, if the fall in turnover exceeds 50%, the direct grant shall equal to 40% of the fall in turnover, with a maximum aid amount of EUR 12 000 for micro enterprises and EUR 48 000 for small enterprises.
- (21) Portugal therefore confirms that aid will not exceed EUR 2.3 million per undertaking – in gross terms, that is, before any deduction of tax or other charges.

2.8. Cumulation

- (22) The aid ceilings and cumulation maxima fixed under the measure will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the European Structural and Investment Funds (ESIF).

¹⁴ 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.

¹⁵ 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.

- (23) The Portuguese authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulation¹⁶ or the GBER provided the provisions and cumulation rules of those Regulations are respected.
- (24) The Portuguese 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.
- (25) The Portuguese 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.

2.9. Monitoring and reporting

- (26) The Portuguese 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 granting¹⁷).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (27) By notifying the measure before putting it into effect (recitals (9) and (13)), the Portuguese authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (28) 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.
- (29) The measure is imputable to the State, since it is administered by the Regional Directorate for Investment and Competitiveness (recital (10)) and it is based on the national legal basis referred to in recital (9). It is financed through State resources, since it is financed by public funds.

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).

¹⁷ Referring to information required in Annex III to the GBER.

- (30) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (8)). The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (31) The advantage granted by the measure is selective, since it is awarded only to micro, small and medium-sized enterprises fulfilling the eligibility criteria described in recitals (14) to (20), in particular, only to undertakings active in the sectors referred to in recital (14) and in the outermost region of the Azores.
- (32) 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.
- (33) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Portuguese authorities do not contest that conclusion.

3.3. Compatibility

- (34) 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.
- (35) 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*”.
- (36) 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*”.
- (37) The measure aims to remedy the situation of liquidity shortages at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (38) The measure is one of a series of measures conceived at national and regional level by the Portuguese authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve 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 Portuguese 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.
- (39) 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 direct grants shall not exceed EUR 50 000 per undertaking (recitals (19) and (20)). They therefore do not exceed EUR 2.3 million per undertaking - all figures used being gross, that is, before any deduction of tax or other charges (recital (21)). 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.
- Aid may not be granted under the measure to medium¹⁸ 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 aid¹⁹ or restructuring aid²⁰ (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 2022 (recital (13)). The measure therefore complies with point 22(d) of the Temporary Framework.

- (40) The Portuguese authorities confirm 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 (recital (6)).
- (41) The Portuguese authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (26)). The Portuguese 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 and the cumulation rules of the relevant Regulations are respected (recitals (22) to (25)).
- (42) 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.

¹⁸ As defined in Annex I to the GBER.

¹⁹ 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.

²⁰ 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