



EUROPEAN COMMISSION

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PUBLIC VERSION

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**Subject: State Aid SA.57520 (2020/N) – Austria.
Austrian anti-crisis measures – COVID-19: Garantien für große Unternehmen auf Basis Garantiegesetz 1977 durch die Austria Wirtschaftsservice GmbH (aws) - Amendment to the scheme SA.56981 (2020/N)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 29 May 2020, Austria notified an amendment to the State aid scheme approved by Commission Decision of 17 April 2020 in case SA.56981 (2020/N)¹ (“the amendment”, “the initial scheme” and “the initial Decision” respectively) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended on 3 April and 8 May 2020 respectively (“the Temporary Framework”)².
- (2) Austria exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

¹ Commission Decision C(2020) 2686 final.

² Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak as adopted on 19 March 2020 (C(2020) 1863), OJ C 91 I, 20.3.2020, p. 1-9, as amended on 3 April 2020, OJ C112 I, 4.4.2020, p.1-9 and on 8 May 2020, OJ C 164, 13.5.2020, p. 3–15.

Seiner Exzellenz
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Article 3 of Regulation 1/1958,³ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) The objective of the initial scheme was to ensure financial liquidity to undertakings affected by the economic repercussions of the COVID-19 outbreak. It also aimed to maintain jobs and to minimise other economic effects of the pandemic caused by the shutdown of businesses, lower consumption demand and supply chain disruptions, and preserve economic activity. The amended scheme pursues the same objectives.
- (4) The legal basis for amendment is the *Richtlinie des Bundesministeriums für Finanzen für Garantieübernahmen der Austria Wirtschaftsservice GmbH* (“aws”) gemäß Garantiesetz 1977 in der Fassung vom 25.5.2020⁴.
- (5) The amendment expands the scope of eligible beneficiaries under the initial scheme. The eligible beneficiaries under the initial scheme were small and medium-sized enterprises (“SMEs”) registered or active in Austria (see recitals (16), (17) and (28) of the initial Decision). As a result of the amendment, large enterprises and the economic activities of not-for-profit associations (*gemeinnützige Vereine*) registered or active in Austria that were not already in difficulty (within the meaning of the General Block Exemption Regulation⁵, the Agricultural Block Exemption Regulation⁶ or of the Fisheries Block Exemption Regulation⁷ respectively) on 31 December 2019 may also benefit from temporary limited amounts of aid and guarantees on loans granted under the initial scheme.
- (6) As regards aid in the form of guarantees as described in recital (20) of the initial Decision, the amendment sets the minimum guarantee premiums on a progressive basis in line with the Table in point 25(a) of the Temporary Framework. Following the amendment, minimum guarantee premiums under the initial scheme will be set for SMEs and large enterprises at the following levels:

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

⁴ *Ergänzung zur aws-Garantierichtlinie 2019 in der Fassung vom 19. Juni 2019, Erlass des BMF vom 26.05.2020, 2020-0.297.075, BMF-AVNr. 77/2020.*

⁵ As defined in Article 2 (18) of the 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 of 26.6.2014, p. 1.

⁶ As defined in Article 2 (14) of the 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 of 1.7.2014, p.1.

⁷ As defined in Article 3 (5) of the 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 of 24 December 2014, p. 37.

Type of recipient	Credit risk margin for the 1 st year	Credit risk margin for the 2 nd and 3 rd years	Credit risk margin for the 4 th to 6 th years
SMEs	25bps	50bps	100bps
Large enterprises	50bps	100bps	200bps

- (7) Austria has amended the applicable legal basis to allow the Austria Wirtschaftsservice GmbH (“aws”) to administer the measure as regards large enterprises and the economic activities of not-for-profit associations.
- (8) All other elements (the administration of the scheme, budget and duration, sectoral and regional scope of the measure, cumulation rules and monitoring and reporting rules) of the initial scheme remain unchanged.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (9) By notifying the amendment to the initial scheme before putting it into effect, the Austrian 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 affect trade between Member States.
- (11) Recitals (25) to (30) of the initial Decision establish that the initial scheme gives rise to the grant of State aid. The expansion of the scope of eligible beneficiaries as a result of the amendment does not affect those findings. In particular, since credit and financial institutions and companies that were already in difficulty (within the meaning of the applicable regulations as described in recital (5)) are still excluded from benefitting from the measure, the amended scheme remains selective.

3.3. Compatibility

- (12) Since the amended scheme involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether it is compatible with the internal market.
- (13) The Commission has examined the amended scheme pursuant to Article 107(3)(b) TFEU.
- (14) 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*”.

- (15) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (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*”.
- (16) In recitals (31) to (38) of the initial Decision, the Commission concluded that the initial scheme fulfilled the conditions set out in Sections 3.1 and 3.2 of the Temporary Framework. The sole amendment to that scheme is the extension of the scope of beneficiaries set out in recital (5) above. As regards the grant of temporary limited amounts of aid, the amendment does not affect the compatibility assessment conducted in recital (37) of the initial Decision. As regards the grant of guarantees on loans, the minimum guarantee premia set out in recital (6) above comply with point 25(a) of the Temporary Framework and the amendment does not affect the remainder of the compatibility assessment conducted in recital (38) of the initial Decision.
- (17) The Commission therefore considers that the amended scheme 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) TFEU.

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

