

STATE AID BRIEFING: Special Edition - Vol.3

Latest Developments in State Aid: Urgent Measures Relating to the Covid-19 Pandemic

This Briefing aims to provide an overall update of the latest developments in State aid further to the EU State Aid Temporary Framework which was adopted on 19 March 2020 by the European Commission for the support of the economy of the EU Member States in the Covid-19 outbreak

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A. Third Amendment to the EU State Aid Temporary Framework

1. The EU State Aid Temporary Framework was adopted by the European Commission (Commission) on 19 March 2020 to support the economy of EU Member States in the Covid-19 outbreak. The EU State Aid Temporary Framework initially provided for 5 types of aid that would in principle be compatible with Article 107(3)(b) TFEU in order to remedy the serious disturbance faced by the EU Member States. These measures included:
 - a. direct grants, selective tax advantages and advance payments to companies to address their urgent liquidity needs;
 - b. state guarantees in support of loans granted by the banks;
 - c. subsidized public loans to companies to help them cover immediate working capital and

investment needs;

- d. safeguards for the banks to build on their lending capacities so they keep supporting especially small and medium businesses; and
 - e. short-term export credit insurance.
2. The State Aid Temporary Framework was first amended on 3 April 2020 to increase public support to research, testing and production of products relevant to fighting the coronavirus outbreak, to protect jobs and to further support the economy. The first amendment introduced another 5 types of compatible State aid measures and expanded the existing types of available support to companies. The new types of aid included measures in the form of:
 - a. support for coronavirus-related research and development (R&D);
 - b. support for construction and upscaling of testing facilities;
 - c. support for the production of products aimed at tackling the Covid-19 outbreak;
 - d. targeted support in the form of deferral of tax payments and/or suspensions of social security contributions for sectors, regions or types of companies that were hit the hardest by the

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outbreak; and

- e. targeted support in the form of wage subsidies for employees for those companies in sectors or regions that have suffered most from the outbreak and would otherwise have had to lay off personnel.
3. A second amendment of the State Aid Temporary Framework followed on 8 May 2020 by virtue of which the Commission extended the scope of the Temporary Framework to recapitalization and subordinated debt measures. This second amendment complemented the types of measures already covered by the Temporary Framework and existing State aid rules, by setting out criteria based on which Member States can provide recapitalizations and subordinated debt to companies in need, while protecting the level playing field in the EU. Covid-19 recapitalization instruments may take the form of:
 - a. equity instruments and, in particular, the issuance of new common or preferred shares; and/or
 - b. instruments with an equity component (so-called hybrid capital instruments) and, in particular, profit participation rights, silent participations and convertible secured or unsecured bonds.The Member States must ensure that the selected recapitalization instruments and the conditions attached thereto are appropriate to address the beneficiary's recapitalization needs, while, at the same time, being the least disruptive to competition.
 4. The third amendment of the State Aid Temporary Framework that was introduced on 29 June 2020 (see Commission Communication C(2020) 4509 final) aims to enable the EU Member States:
 - a. to support certain micro and small enterprises, including start-ups, even if they were already in difficulty before 31 December 2019; and
 - b. to provide incentives for private investors to participate in coronavirus-related recapitalization measures.
 5. The Communication of 29 June 2020 recognizes that micro and small companies (meaning undertakings with less than 50 employees and less than €10m annual turnover and/or annual balance sheet) have been particularly affected by the liquidity shortage caused by the economic impact of the Covid-19 outbreak, exacerbating their existing difficulties to access financing as compared to larger enterprises.
 6. The Commission has therefore decided that it is appropriate to include under the Temporary Framework aid to all micro and small undertakings, even if they qualify as being in financial difficulty on 31 December 2019, provided they are not subject to collective insolvency proceedings under their national laws and have not received rescue aid that has not been repaid or are subject to a restructuring plan under State aid rules.
 7. Because of their limited size and limited involvement in cross-border transactions, the Commission considers that aid to such micro and small undertakings is not likely to distort competition in the internal market and affect intra-EU trade, as compared to aid granted to medium-sized and large undertakings.
 8. Through this third amendment, the Commission also aims to increase support to innovative start-up companies which, in their vast majority, fall within the micro and small companies' cluster.
 9. The third amendment also adapts the conditions for the recapitalization measures under the second amendment of the Temporary Framework for those cases where private investors contribute to the capital increase of companies together with the State. The changes introduced aim to encourage capital injections with significant private participation in order to limit State aid to the minimum necessary.
 10. Finally, the third amendment clarifies that aid granted on the basis of Article 107(3)(b) or 107(3)(c) TFEU should not be conditional on the relocation of a production or other activity of the beneficiary from another country within the European Economic Area (EEA) to the territory of

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the Member State granting the aid, as such a condition would be particularly harmful for the internal market.

B. Summary of Greek State Aid Schemes Approved by the Commission under the EU State Aid Temporary Framework

1. The Commission has, to date, approved the following 5 State aid schemes notified to it by the Greek State under the Temporary State Aid Framework:
 - a. aid in the form of capped business loans portfolio guarantees for new working capital loans, aimed at supporting all undertakings active in Greece, regardless of their size, by providing guarantees on new working capital loans (State Aid S.A. 56857, approved on 3 April 2020), as amended on 30 April 2020 to introduce, inter alia, the possibility of partial or full subsidization of the guarantee premiums for the loans covered by this aid scheme (State Aid S.A. 57048);
 - b. aid in the form of repayable advances to undertakings of all sectors that have been hit hard by the onset and spread of Covid-19, as demonstrated by a reduction of their business activity of at least 30% and taking account of the losses incurred by them, their specific business type features and other Covid-19 support measures from which they have benefited (State Aid S.A. 56815, approved on 7 April 2020);
 - c. aid in the form of grants intended to support the availability of working capital for small and medium-sized enterprises active in sectors particularly affected by the Covid-19 outbreak (State Aid S.A. 56839, approved on 8 April 2020);
 - d. aid in the form of direct grants to the floriculture sector, aimed at supporting farmers active in the floriculture primary production market affected by the Covid-19 outbreak (State Aid S.A. 57194, approved on 5 May 2020); and
 - e. aid in the form of wage subsidies to the self-employed, aimed at supporting self-employed individuals, including self-employed managers of small undertakings, for the loss of income suffered by them during the period from 17 March 2020 to 30 April 2020 in sectors that have suffered significant loss of business due to the Covid-19 outbreak (State Aid S.A. 57165, approved on 11 May 2020).

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