

Brussels, 15 December 2020
Case No: 85870
Document No: 1164343
Decision No 164/20/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090
Dep 0032 Oslo
NORWAY

Subject: COVID-19 NOR 3rd amendment and prolongation of the Grant scheme for undertakings suffering a substantial loss of turnover

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the notified amendments and prolongation of the COVID-19 Grant scheme for undertakings suffering a substantial loss of turnover (“the measures”), it considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections,¹ as the measures are compatible with the functioning of the EEA Agreement, pursuant to its Article 61(2)(b). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified the measures on 14 December 2020.² The Norwegian authorities submitted further information by email of 14 December 2020.³ ESA requested further information by email of 14 December 2020.⁴ The Norwegian authorities responded by email of 15 December 2020.⁵

3 Description of the measures

3.1 The existing COVID-19 Grant scheme for undertakings suffering a substantial loss of turnover

- (3) By Decision No [039/20/COL](#) of 17 April 2020, ESA approved the COVID-19 Grant scheme for undertakings suffering a substantial loss of turnover (“the scheme”). The scheme covered losses suffered during the period from 1 March 2020 to 31 May 2020 included.
- (4) By Decision No [065/20/COL](#) of 26 June 2020, ESA approved amendments to, and a prolongation of, the scheme. The approved amendments comprised: (i) reductions of the adjustment factors used in one of the formulas under the scheme; (ii) removing the fixed deduction to unavoidable fixed costs in the same formula; and (iii) reductions of the maximum compensation amount per month.

¹ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

² Documents No 1168767 and No 1168765.

³ Document No 1168978.

⁴ Document No 1169112.

⁵ Document No 1169125.

The prolongation entailed extending the scheme to cover losses suffered during period from 1 June 2020 to 31 August 2020 included.

- (5) The general conditions of the scheme are described in Decisions No [039/20/COL](#) and No [065/20/COL](#). The Norwegian authorities have confirmed that, aside from the prolongation and amendments described below, the scheme remains unchanged.

3.2 Background – the continued impact of COVID-19

- (6) The COVID-19 outbreak poses a serious hazard to life and health. To counteract the outbreak, the Norwegian authorities have implemented strong preventative public health measures. The containment measures have included social distancing measures, restrictions on public gatherings and events, travel restrictions, advice against non-essential travel, advice on limiting social contacts, quarantine requirements and lockdowns. The national restrictions and measures were updated on 5 November 2020.⁶
- (7) The containment measures have severely affected businesses operating in Norway. Many companies have suffered from, and are still experiencing, a substantial loss of turnover. In the view of the Norwegian authorities, the following containment measures, in particular, have had a direct impact on the turnover of businesses operating in Norway during the period covered by the prolongation:
- **Social distancing.**⁷ These requirements entail that people must, with some exceptions, observe a minimum distance to each other. Where applicable, the requirements must be adhered to both in public spaces and in private homes. The requirements make it exceptionally difficult to arrange all kinds of public events and affect the turnover of businesses dependant on physical costumers. For example, shops and department stores cannot let in more than a certain number of people at a time, and cafes must ensure that social distancing is adhered to. The requirements also make it less attractive for customers to make use of the services rendered by these businesses.
 - **Restrictions on daily life.**⁸ With effect from 5 November, Government has publicly announced that people should stay at home and avoid contact with others. There is a national recommendation of limiting social contact to a maximum of ten people a week.⁹ The authorities further recommend no more than five guests in addition to the household members.¹⁰ Gyms are completely closed down in certain cities and municipalities.¹¹ There is also a national ban on serving alcohol after midnight¹² and a total ban of serving

⁶ <https://www.regjeringen.no/en/topics/koronavirus-covid-19/national-measures-that-apply-to-everyone-from-5th-november/id2783881/>

⁷ <https://www.fhi.no/en/op/novel-coronavirus-facts-advice/facts-and-general-advice/social-distance-quarantine-and-isolation/>

⁸ <https://www.regjeringen.no/en/aktuelt/stay-at-home-have-as-little-social-contact-as-possible/id2783763/>

⁹ <https://www.fhi.no/en/op/novel-coronavirus-facts-advice/facts-and-general-advice/social-distance-and-fewer-contacts/?term=&h=1>

¹⁰ <https://www.regjeringen.no/en/topics/koronavirus-covid-19/national-measures-that-apply-to-everyone-from-5th-november/id2783881/>

¹¹ <https://e24.no/naeringsliv/i/kRRjkk/sats-stenger-53-treningssentre-i-oslo-og-bergen>

¹² <https://www.regjeringen.no/en/topics/koronavirus-covid-19/national-measures-that-apply-to-everyone-from-5th-november/id2783881/>

alcohol in Oslo.¹³ In addition, restaurants and bars are not allowed to receive customers after 10:00 pm. All guests at restaurants and bars must be seated, and the venue must register contact details of those who consent to facilitate the tracing of possible infections.¹⁴

- **Travel restrictions and quarantine rules.**¹⁵ On 15 July 2020, the Ministry of Foreign Affairs lifted the previous travel restrictions and quarantine obligation for European countries that met specific criteria on day-to-day infection levels.¹⁶ The list of which areas meet the criteria is updated at least every 14 days. As of 11 December 2020, no countries meet the criteria, except for certain regions in Finland, Greenland and the Faroe Islands.¹⁷ With respect to travel advice, the authorities are currently advising against non-essential travel abroad.¹⁸ For domestic travel, the Government is advising against travel that is not work-related or in relation to second homes, where one can keep a distance of 1 metre during travel.¹⁹
- **Restrictions on events.**²⁰ The Government has imposed strict restrictions on the organisation of events. Pursuant to the COVID-19 Regulation, public outdoor events can have a maximum of 600 participants on the condition that they are divided into groups of up to 200 and are assigned fixed seats. Without fixed seats, the maximum number of participants at public outdoor events is set to 200. With respect to indoor events in a public place, the limit is 200 participants provided that fixed seats are provided. Without fixed seats, a maximum of 50 participants can be present at such events.²¹

- (8) The Norwegian authorities have explained that they expect containment measures to be in force for a considerable time to come.

3.3 The prolongation

- (9) As a result of the continued impact of the COVID-19 outbreak, the direct economic effects of the pandemic and related containment measures in Norway have persisted longer than foreseen. In the view of the Norwegian authorities, businesses have experienced losses in turnover, as a direct effect of the COVID-19 outbreak, after the period covered by the scheme as approved in Decision No

¹³ <https://www.oslo.kommune.no/koronavirus/rad-og-regler-i-oslo/servering-og-skjenking/>

¹⁴ <https://www.regjeringen.no/en/topics/koronavirus-covid-19/national-measures-that-apply-to-everyone-from-5th-november/id2783881/>

¹⁵ <https://www.fhi.no/en/op/novel-coronavirus-facts-advice/facts-and-general-advice/travel-advice-COVID19/>

¹⁶ <https://www.regjeringen.no/no/aktuelt/apning-for-reiser-mellom-norge-og-europa/id2721165/>

¹⁷ See Appendix A to the COVID-19 Regulation, FOR-2020-03-27-470, available on the following link: <https://lovdata.no/dokument/SF/forskrift/2020-03-27-470>. Requirements on testing for COVID-19, and on documentation of test results, are also enforced.

¹⁸ https://www.regjeringen.no/en/topics/foreign-affairs/reiseinformasjon/travel_coronavirus/id2691821/

¹⁹ <https://www.regjeringen.no/en/topics/koronavirus-covid-19/national-measures-that-apply-to-everyone-from-5th-november/id2783881/>

²⁰ <https://www.fhi.no/en/op/novel-coronavirus-facts-advice/advice-and-information-to-other-sectors-and-occupational-groups/events-and-gatherings/>, <https://www.helsenorge.no/koronavirus/feiringer-sammenkomster-og-arrangementer/>, https://www.regjeringen.no/no/tema/Koronasituasjonen/sporsmal-og-svar-om-koronasituasjonen/sporsmal-og-svar-om-arrangementer/id2703876/#tocNode_1

²¹ The COVID-19 Regulation, FOR-2020-03-27-470, is available on the following link: <https://lovdata.no/dokument/SF/forskrift/2020-03-27-470>

[065/20/COL](#). As stringent containment measures will be upheld in the coming months, it can be expected that businesses will continue to suffer from such losses for this period as well.

- (10) As amended, the scheme will cover losses suffered from 1 September 2020 until 28 February 2021 included.
- (11) For the purpose of administering the scheme, the prolongation is divided into three application periods. The first period comprises loss of turnover from 1 September 2020 to 31 October 2020. The second period covers loss of turnover from 1 November 2020 to 31 December 2020. The third period concerns loss of turnover from 1 January 2021 to 28 February 2021.
- (12) The beneficiaries will be able to submit applications for grants in two different application rounds. The first application round will be from 18 January to 14 March 2021. During the first application round, beneficiaries can apply for compensation for loss of turnover during the first and second application period.
- (13) The second application round will start on 15 March and ends on 15 May 2021. In this application round, beneficiaries can apply for compensation for loss of turnover in the third application period.

3.4 The amendments

3.4.1 The granting authority

- (14) The existing scheme has been administered by the Norwegian Tax Administration (*Skatteetaten*) on behalf of the Norwegian Ministry of Finance.²² The scheme, as amended, will instead be administered by the Brønnøysund Register Centre. The Brønnøysund Register Centre is a government body under the Ministry of Trade, Industry and Fisheries.

3.4.2 The conditions for beneficiaries

- (15) The threshold that beneficiaries must have suffered a decline in turnover of at least 30%, compared to the relevant reference period before the pandemic, is continued.²³ However, the decline will no longer be assessed on a month by month-basis. The threshold will instead relate to the average decline in turnover over the respective application period for which aid is sought. As identified in Section 3.3 above, each application period has a duration of two months.
- (16) The reference period for each of the application periods will be the corresponding two months of the preceding year. However, for enterprises that have been transferors or acquirers in demergers registered in the Register of Business Enterprises in the period 1 September 2019 to 31 December 2019, the turnover in January and February 2020 shall always be used as the reference. Similarly, to the existing scheme, undertakings that did not exist in 2019 shall use turnover in January and February 2020 as the reference period.
- (17) A further adjustment from the existing scheme is that the turnover calculation for the reference period will not be adjusted using the growth rate from January/February 2019 to January/February 2020.²⁴ The Norwegian authorities

²² Decision No 039/20/COL, paragraph 8.

²³ Decision No 039/20/COL, paragraph 12. The threshold was 20% for the month of March.

²⁴ Decision No 039/20/COL, paragraph 13.

consider that, as the reference periods for the first two application periods covered by the prolongation are between September and December 2019, most of the growth in 2019 will be reflected directly in the turnover for the reference periods. The Norwegian authorities further consider that the application of a growth factor adjustment complicates the administration of the scheme and that there is no longer a sufficient case for such complication.

- (18) The scheme, as amended, incorporates updates pertaining to the requirements for submitting tax returns and annual accounts, as well as tax returns for VAT due. Under the existing scheme, the tax return and annual accounts for 2018 must have been submitted, as long as the undertaking was established at the time. Tax returns for VAT, due in 2019 and until the scheme came into force, must furthermore have been submitted.²⁵
- (19) Under the amended scheme, tax returns and annual accounts must instead have been submitted for 2019, as long as the undertaking was established in 2019 or earlier. Similarly, tax returns for VAT with a delivery deadline within the expiry of the application period for which aid is sought, must have been delivered.
- (20) The amended scheme also includes a new limitation with respect to undertakings that have been transferors or takeovers in demergers registered as completed in the Register for Business Enterprises on 1 January 2020 or later. Such entities are not covered by the scheme. The amendment is incorporated to prevent abuse, and further reflects that applying the compensation mechanism under the scheme directly for such entities would not produce meaningful results.

3.4.3 *The compensation mechanism*

- (21) The measures comprise some adjustments and clarifications to elements of the compensation mechanism. These adjustments are described in the following.
- (22) First, the adjustment factors that are applied in the formula used for determining the aid intensity have been set for the prolongation period.²⁶ The adjustment factor has been set at 0.7 for the first application period from 1 September 2020 to 31 October 2020. For the second application period, from 1 November 2020 to 31 December 2020, the adjustment factor is 0.85. For the third and last application period, from 1 January 2021 to 28 February 2021, the adjustment factor will be 0.80.
- (23) The background for the increase in the adjustment factor from the first to the second application period is the stricter containment measures imposed in Norway from the beginning of November. The reason that the adjustment factor will be decreased again from the second to the third application period is uncertainty as to what restrictions and preventative health measures will be in force in January and February 2021.
- (24) Second, an amendment has been made to the requirement that fixed costs must be tied to contractual obligations arising prior to 1 March 2020 to be taken into

²⁵ Decision No 039/20/COL, paragraph 17.

²⁶ The formula is set forth in paragraph 33 of Decision No 039/20/COL.

account.²⁷ Under the scheme as amended, fixed costs must be tied to contractual obligations that arose prior to 1 September 2020, in order to be included.

- (25) Third, the upper limit for the aid amount per undertaking or group of undertakings is set to NOK 160 million per application period (two-month period). The limits under the existing scheme are NOK 70 million for June and July, and NOK 50 million for August.²⁸
- (26) Fourth, the threshold where the reduction factor applied with respect to applications for large amounts of aid comes in has been adjusted. Under the amended scheme, the conditions have been set to apply per application period. Aid amounts of up to NOK 60 million per application period will be disbursed in their entirety. Aid amounts in excess of this will be reduced with the existing factor of 0.5.²⁹

3.4.4 *The compensation procedure and control mechanisms*

3.4.4.1 The existing scheme

- (27) Under the existing scheme, applications are assessed by the Norwegian Tax Administration, based on an automated process. Applicants had to provide a defined minimum of information and confirm that they were able to provide an audit certification from an accredited accountant or auditor upon request. The automated assessment included an evaluation of the credibility of claims and processes to detect unsubstantiated or fraudulent claims. The assessment also included criteria to flag applications for manual assessment.³⁰
- (28) In addition to this control, the Norwegian Tax Administration carries out risk-based *ex post* audits under the existing scheme. This control mechanism originally comprised an analytically risk-based selection of undertakings to be audited.³¹
- (29) In conjunction with the approval of amendments to, and a prolongation of, the scheme in Decision No [065/20/COL](#), the Norwegian authorities further committed to carrying out *ex post* controls by calculating the actual net losses (damage) and comparing these losses to the compensation paid. The precise methodology for such control will be sent to ESA for approval before 31 December 2020. The controls will be carried out consecutively and in relation to the ordinary tax assessment in 2021, which is expected to be completed by 31 October 2021.³²

3.4.4.2 The scheme as amended

- (30) Under the scheme, as amended, the application processing of the new granting authority, the Brønnøysund Register Centre, will for the most part be automated. This is considered a key prerequisite for ensuring efficient administration and alleviating the economic situation of undertakings suffering losses as a direct result of the COVID-19 outbreak. The aid will be disbursed once the application in question has been processed.

²⁷ Decision No 039/20/COL, paragraph 39.

²⁸ Decision No 065/20/COL, paragraph 6 (ii).

²⁹ As compared with Decision No 039/20/COL, paragraph 43.

³⁰ The process is described in Decision No 039/20/COL, paragraphs 45 to 47.

³¹ The process is described in Decision No 039/20/COL, paragraph 48.

³² Decision No 065/20/COL, paragraph 12.

- (31) The Brønnøysund Register Centre will incorporate an electronic portal in the application process. This portal will ensure secure identification of all applicants.
- (32) The applicants will furthermore be required to provide an overview in support of the figures and calculations that the application is based on. This overview shall include turnover pre-crisis, loss in turnover, unavoidable fixed costs and net earnings before taxes, and incorporate references to relevant accounting material. The relevant accounting material comprises invoices and account specifications, with sales documentation, overviews of earned income that has not been invoiced, as well as documentation concerning purchases and contracts.
- (33) An important new requirement under the amended scheme is that applicants will be required to provide a statement from an accredited accountant or auditor when submitting the application. This statement must confirm that all the criteria to fall within the scope of the scheme are fulfilled. The confirmation must in this connection cover turnover pre-crisis, loss in turnover, unavoidable fixed costs, net earnings before taxes, the information on other relevant aid received in connection with the COVID-19 outbreak – including that such aid has been taken into account for the purposes of the loss in turnover calculation, and that the decline in turnover is due to the COVID-19 outbreak. Further, the accredited accountant or auditor will control that the applicant does not apply for more aid than allowed for, in keeping with the formulas contained in paragraphs 30, 33 and 40 of [Decision No 039/20/COL](#). With respect to the requirement to include other public support received to cover the same eligible costs in the turnover for the period for which aid is sought, the Norwegian authorities have confirmed that compensation covering substantially the same damage, such as net losses and loss of turnover, must be included.³³
- (34) The requirement of a statement from an accredited accountant or auditor is regarded as a key control mechanism. As has been explained above, each of the two application rounds takes place after the respective application periods covered in each round. This entails that the aid under the amended scheme will be granted and disbursed *ex post*, for losses that have already been incurred. The requirement of a statement from an accredited accountant or auditor is thus designed to ensure that the information relevant for assessing the aid application is verified before a grant decision is made and that the aid amount is correctly calculated.
- (35) Parts of the costs of using an auditor or accountant will be reimbursed if the application is approved. The cost coverage is limited in two directions. First, the cost coverage can never exceed 80% of the relevant costs. Second, the cost coverage is upwards limited to NOK 10 000.
- (36) As the requirement of a statement from an accredited accountant or auditor has been designed to effectively ensure that grant decisions are made on the basis of complete and verified information, the Norwegian authorities consider that the need for other control mechanisms is limited. The Brønnøysund Register Centre nonetheless envisages to perform checks against its own registers. These checks will most likely include checks against the Bankruptcy Register, the Business Register and the Central Coordinating Register of Legal Entities.

³³ See in this connection Decision No 065/20/COL, paragraph 32.

- (37) In light of the new control mechanism, the Norwegian authorities do not consider it necessary to include mechanisms providing for risk-based audits under the renewed and amended scheme. The Brønnøysund Register Center is, however, in the process of establishing additional control procedures for certain applications. These procedures may include additional checks of applications for aid amounts over a certain threshold, or of applications with a certain risk profile.
- (38) While the amended scheme will not incorporate general additional control mechanisms for calculating the actual net losses (damage) and comparing these to the compensation paid, it will as a further safeguard include a mechanism in the form of sample controls, after the grant decision has been made.
- (39) In the view of the Norwegian authorities, the combined control mechanisms will be sufficient to rule out overcompensation. Should the Brønnøysund Register Centre nonetheless find that a grant decision has been based on incorrect information, the decision shall be corrected through the Norwegian Tax Authority. Moreover, the Norwegian authorities commit to recovering any overcompensation.

3.5 National legal basis

The Norwegian Government has proposed a legislative bill to Parliament concerning the measures.³⁴ If this act is passed, it will form the national legal basis. The conditions for aid will further be set out in a regulation to be adopted by the Ministry of Trade, Industry and Fisheries.

3.6 Budget

- (40) The estimated maximum budgetary implication of the prolongation period is NOK 5 billion. This comes in addition to an estimated maximum budgetary implication of NOK 30 billion for the period from 1 March to 31 August 2020.³⁵

3.7 Cumulation

- (41) As under the existing scheme, aid can be combined with other aid covering the same eligible costs up to 100% of the damage incurred. Further, applicants must still declare other aid received to cover the same eligible costs.
- (42) As described in Section 3.4.3 and 3.4.4 above, the compensation mechanism and procedures include elements established to ensure that grants of aid are correctly calculated and that no overcompensation takes place. As an additional control mechanism, beneficiaries will under the amended scheme be required to inform the Brønnøysund Register Center of other aid received after the grant decision that could influence the calculation of the compensation under the scheme. In the event that other aid has resulted in overcompensation, the beneficiary will be required to pay back the amount exceeding the aid amount as correctly calculated. Failure to provide information on other aid is subject to sanctions.
- (43) The Norwegian authorities have further committed to ensuring that in the event that other aid schemes are established covering the same eligible costs, the Norwegian authorities will include mechanisms under those schemes ensuring that aid under the scheme is taken into account.

³⁴ Prop. 31 L (2019-2010) *Lov om midlertidig tilskuddsordning for foretak med stort omsetningsfall etter august 2020*.

³⁵ Decision No 039/20/COL, paragraph 11.

4 Presence of state aid

- (44) Article 61(1) of the EEA Agreement reads as follows: “Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.”
- (45) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.
- (46) ESA has concluded that the scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement. There is nothing in the notification to indicate that this conclusion should be altered with respect to the measures. On this basis, ESA concludes that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

- (47) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“Protocol 3”): “The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. ... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision.”
- (48) The Norwegian authorities have notified the measures and not let them enter into force yet. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the measures

- (49) ESA shall declare state aid compatible with the functioning of the EEA Agreement under its Article 61(2)(b) provided that certain compatibility conditions are fulfilled. That provision reads: “The following shall be compatible with the functioning of this Agreement: aid to make good the damage caused by natural disasters or exceptional occurrences”. ESA has no discretion in assessing the compatibility of aid that falls within this category and meets the terms of Article 61(2)(b) of the EEA Agreement.
- (50) ESA concluded in Decision No [039/20/COL](#) and Decision No [065/20/COL](#) that the scheme is compatible with the functioning of the EEA Agreement pursuant to its Article 61(2)(b). The notified measures do not alter those conclusions.
- (51) With respect to the characterisation of the COVID-19 outbreak as an exceptional occurrence, as prescribed by Article 61(2)(b), ESA notes that this is still applicable. As noted in Section 3.2 above, the situation in Norway under the period covered by the prolongation is characterised by unprecedented containment measures, which are assessed by the Norwegian authorities on an ongoing basis. Such extensive containment measures have a significant

economic impact and are expected to remain in place throughout the period covered by the prolongation.

- (52) As regards the requirement of a direct causal link between the damage compensated and the exceptional occurrence, ESA notes that, as reiterated in paragraph 15*bis* of the European Commission's [Temporary Framework](#) for state aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework"),³⁶ aid under Article 107(2)(b) TFEU, which is the provision corresponding to Article 61(2)(b) of the EEA Agreement, can only be granted in support of damages directly caused by the COVID-19 outbreak and the consequent containment measures. Aid addressing the economic consequences of the downturn more generally must be granted on the basis of other compatibility grounds.
- (53) While the compensation procedure and control mechanisms have been adjusted, the scheme, as amended, includes mechanisms ensuring that aid is only granted in support of losses resulting directly from the COVID-19 outbreak. First, the requirement that beneficiaries must confirm, under threat of sanctions, that the loss of turnover, for which aid is sought, is due to the COVID-19 situation, has been upheld. Second, the amended scheme incorporates a new control mechanism, under which applicants must provide a statement from an accredited accountant or auditor, confirming that the requirements to fall within the scope of the scheme are fulfilled, and confirming the information on which the application is based. The accountant or auditor shall in this connection control that the applicant does not apply for more aid than that for which it is eligible. Third, the Norwegian authorities will continue to enforce a system of administrative fines applicable to beneficiaries who, intentionally or with gross negligence, have supplied incorrect or incomplete information. Finally, the Norwegian authorities have undertaken to recover any overcompensation and to conduct sample controls of grant decisions and aid disbursed under the scheme.
- (54) The above mechanisms are furthermore, in combination with the other relevant features of the scheme, appropriate means of ensuring that aid granted will be proportional to the damage caused by the exceptional occurrence.
- (55) With respect to those other features, first, aside from the amendments described above, the compensation mechanism and conditions under it remain unchanged. Similarly, the conditions on aid intensity and the sectoral scope of the scheme remain unchanged. The reasoning in Section 6.4 of Decision No [039/20/COL](#) remains valid for the measures insofar as the elements that have not been amended, are concerned.
- (56) Second, the amended compensation procedure entails that aid under the scheme will still be granted *ex post* for damages actually incurred. In this connection, ESA has also attached weight to the requirement for applicants to disclose other COVID-19 related aid, and that this is one of the elements that must be included in the statement from an accredited accountant or auditor, required as part of the application process. In combination with the Norwegian authorities' commitments

³⁶ Communication from the Commission – Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak of 19 March 2020, OJ C 91, 20.3.2020, p. 1, amended four times, (i) on 3.4.2020, OJ C 112, 4.4.2020, p. 1, (ii) on 8.5.2020, OJ C 164, 13.5.2020, p. 3, (iii) on 29.6.2020, OJ C 218, 2.7.2020, p. 3, and (iv) on 13.10.2020, OJ C 340, 13.10.2020, p. 1.

pertaining to cumulation and recovery of any overcompensation, this mechanism should effectively ensure that the beneficiaries are not overcompensated, as a result of receiving aid under other measures.

- (57) Third, the amended scheme includes a requirement whereby fixed costs must reflect contractual obligations which have arisen before 1 September 2020, to be taken into account under the compensation mechanism. This will prohibit beneficiaries from increasing the relevant fixed costs through deliberate contractual arrangements. At 1 September 2020, it was not known that the Norwegian authorities would find the need to prolong the scheme.
- (58) In light of the above, ESA finds that the notified prolongation and amendments are consistent with the logic of the scheme and that the measures are proportionate under the circumstances, given the exceptional occurrence of the COVID-19 pandemic.

7 Conclusion

- (59) On the basis of the foregoing assessment, ESA considers that the measures constitute state aid within the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that the aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(2)(b), it has no objections to the implementation of the measures.
- (60) The Norwegian authorities have confirmed that the notification does not contain confidential information.

For the EFTA Surveillance Authority,

Yours faithfully,

Bente Angell-Hansen
President
Responsible College Member

Frank J. Büchel
College Member

Högni Kristjánsson
College Member

For Carsten Zatschler
Countersigning as Director,
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*This document has been electronically authenticated by Bente Angell-Hansen,
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