

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

Subject: COVID-19 amendments to the aid 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 amendments to the aid scheme for undertakings suffering a substantial loss of turnover (“the measures”), it considers that they constitute state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to the measures, as they are compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(b). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified the measures on 21 September 2021.²

3 Description of the measures

3.1 Background

- (3) By Decision No [057/21/COL](#) of 21 May 2021, ESA approved the COVID-19 Grant scheme for undertakings suffering a substantial loss of turnover under Article 61(3)(b) of the EEA Agreement (“the 3b scheme”). The 3b scheme’s compatibility was assessed in line with Section 3.12 of the Commission’s Communication on the Temporary Framework for state aid measures to support the economy in the current COVID-19 outbreak (“the [Temporary Framework](#)”).³ The 3b scheme covers losses suffered during the period from 1 March 2021 to 31 October 2021.
- (4) The Norwegian economy is now recovering. If the aid levels under the scheme are maintained at a high level, the Norwegian authorities consider that the incentives for businesses to increase activity may be too low. Therefore, the Norwegian authorities consider it advisable to cut down on the aid levels by

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 1228467 and 1228469.

³ 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 five 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, (iv) on 13.10.2020, OJ C 340, 13.10.2020, p. 1, and (v) on 28.01.2021, OJ C 34, 01.02.2021, p 6.

making retroactive changes to the 3b scheme, applicable from 1 September 2021 (see section 3.2 below).

- (5) The Norwegian authorities have confirmed that, aside from the specific amendments described below, the 3b scheme remains as described in Decision No [057/21/COL](#).

3.2 The measures – amendments to the 3b scheme

3.2.1 Amendment to the loss in turnover threshold for September and October 2021

- (6) The Norwegian authorities intend to raise the loss in turnover threshold from 30% to 40% for the period from 1 September to 31 October 2021. Therefore, for this period applicants must demonstrate that the undertaking has suffered a loss of turnover of at least 40% compared with the same period in 2019.

3.2.2 Amendment to the fixed cost-to-turnover ratio formula for September and October 2021

- (7) The Norwegian authorities intend to raise the deduction from the percentage decline in turnover to the fixed cost-to-turnover ratio formula from 0.3 to 0.4 for the period from 1 September to 31 October 2021. Therefore, for that period the fixed cost-to-turnover formula will be as follows:

$$\text{aid} = \text{fixed costs} \times (\text{percentage decline in turnover} - 0.4) \times 85/70$$

3.2.3 Budget

- (8) The Norwegian authorities have previously estimated the budget for the 3b scheme to be NOK 4 billion. The Norwegian authorities' revised estimated budget of the initial 3b scheme is NOK 2 billion. This includes the effect of the amendments.

4 Presence of state aid

4.1 Introduction

- (9) 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."
- (10) 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.
- (11) 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 Lawfulness of the aid

- (12) 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."
- (13) The Norwegian authorities have notified the measures and have yet to let them enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid

6.1 Introduction

- (14) The 3b scheme has been designed to be compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(b), and in particular Section 3.12 of the Temporary Framework. ESA concluded in Decision No [057/21/COL](#) that the 3b scheme is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(b).
- (15) The proposed amendments have no bearing on the compatibility assessment in Decision No [057/21/COL](#).
- (16) First, the amendment related to raising the loss in turnover threshold from 30% to 40% for the period from 1 September to 31 October 2021 will merely limit the potential field of beneficiaries, in an objective and non-discriminatory way. This does not affect the underlying rationale of the 3b scheme.
- (17) Second, the amendment related to raising the deduction from the percentage decline in turnover to the fixed cost-to-turnover ratio formula from 0.3 to 0.4 for the period from 1 September to 31 October 2021 will merely decrease the aid intensity of the scheme in an objective and non-discriminatory way. This change does not affect the rationale of the 3b scheme.
- (18) The proposed amendments do not alter ESA's previous conclusion on the scheme being necessary, appropriate and proportionate to remedy a serious disturbance in the economy of an EEA EFTA State, and that the requirements laid down in Section 3.12 of the Temporary Framework are complied with.
- (19) Consequently, the proposed amendments do not alter ESA's previous conclusion on the scheme's compatibility under Article 61(3)(b) EEA.

7 Conclusion

- (20) On the basis of the foregoing assessment, ESA considers that the amendments to the aid scheme for undertakings suffering a substantial loss of turnover constitute state aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that aid is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(b), it has no objections to the implementation of the measures.

- (21) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published.

For the EFTA Surveillance Authority,

Bente Angell-Hansen
President
Responsible College Member

Frank J. Büchel
College Member

Högni S. Kristjánsson
College Member

Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

*This document has been electronically authenticated by Bente Angell-Hansen,
Melpo-Menie Josephides.*