DAC BEACHCROFT

COVID-19: State Aid – European Union

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As the coronavirus causes significant economic losses for companies all over the world, EU State aid rules are being relaxed to allow for governments to help affected businesses.

What is "State aid"?

State aid includes any advantage granted selectively to certain undertakings by the State or through State resources.

This can include, for example, grants, subsidies, loans on favourable terms, State guarantees, or tax benefits granted to individual firms.

State aid rules apply to the EU member states, and other countries who participate in the EU internal market, such as Norway, and are thus bound by internal market rules, including State aid rules. They also apply to the UK, at the least during the so-called 'transition period' (currently scheduled to end on 31 December 2020).

What kind of public support is generally allowed?

State aid is generally prohibited, unless it has been notified to and cleared by the European Commission ('Commission').

However, there are a number of exceptions that allow governments to assist companies who are facing difficulties as a result of the coronavirus crisis, without having to notify the Commission.

These include:

- The implementation of **general measures** (for example suspension of payments of corporate and VAT or social contributions, wage subsidies etc.) that apply equally to all companies are likely to fall outside the scope of State aid rules as they do not selectively benefit certain groups of undertakings.
- The **General Block Exemption Regulation ('GBER')** allows for a wide range of aid measures and categories to meet certain policy objectives, in particular in favour of SMEs. It includes aid measures for e.g. regional development, aid for female entrepreneurs as well as R&D, always provided that certain conditions under the GBER are met.
- The **'de minimis' Regulation** permits aid of up to €200,000 to a single undertaking in any 3-year rolling period.

The new Temporary Framework

On 19 March, the Commission adopted a Temporary Framework to enable participating States to use the full flexibility foreseen under State aid rules to support the economy in the context of the COVID-19 outbreak.

The State aid Temporary Framework, which applies until the end of December 2020 (with the option of being extended), recognises that the entire economy is experiencing a serious disturbance.

To remedy that, the Temporary Framework provides for five types of aid:

- **Direct grants, selective tax advantages and advance payments:** Public bodies will be able to set up schemes to grant **up to €800,000** to a company to address its urgent liquidity needs.
- **State guarantees for loans taken by companies from banks**: Public bodies will be able to provide State guarantees to ensure banks keep providing loans to the customers who need them.
- **Subsidised public loans to companies**: Public bodies will be able to grant loans with favourable interest rates to companies. These loans can help businesses cover immediate working capital and investment needs.
- **Safeguards for banks that channel State aid to the real economy**: Some participating countries plan to use banks as a channel for support in particular SMEs. The Framework makes clear that such aid is considered as direct aid to the banks' customers, not to the banks themselves.
- **Short-term export credit insurance**: The Framework introduces additional flexibility on how to demonstrate that certain countries are not-marketable risks, thereby enabling short-term export credit insurance when needed.

Several notifications have already been made to – and approved by the Commissions.

For instance, on Sunday, 22 March, two days following adoption of the Framework, the Commission approved a €50 million Italian support scheme for the production and supply of medical equipment and masks during Coronavirus outbreak.

Communication of 13 March

The Framework follows the **Communication on a Coordinated economic response to the COVID-19 outbreak** of 13 March 2020.

The latter Communication clarifies, amongst other things, that public bodies can adopt measures that fall outside the scope of State aid control, such as national funds granted to health services or other public services to tackle the Covid-19.

The Commission also considers that the Covid-19 crisis allows participating states to adopt aid measures to compensate the damage caused by **exceptional occurrences**, which gives raise to Commission approval under the State aid rules. Several notifications have been made on this basis so far, with turnaround times of 24h or less.

One of the first notifications came from Denmark and the Commission approved, within 24 hours of receiving the notification by the Danish Government, an aid scheme for Denmark amounting to €12 million (DKK 91 million). The aim of this aid scheme is to compensate organisers for the damages suffered for cancellation of events as a result of the coronavirus.

Further help for companies in financial difficulty

Companies in financial difficulty, including from industry sectors such as aviation, tourism, hospitality or financial services, may also be able to receive **rescue and restructuring aid** in accordance with the Rescue and Restructuring guidelines.

In this respect, the Commission has indicated it will be flexible in applying the ‘one time last time principle’ – which normally precludes companies from receiving rescue and restructuring aid more than once in ten years.

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