EUROPEAN COMMISSION

Brussels, 15.02.2021
C(2021) 1101 final

PUBLIC VERSION

This document is made available for information purposes only.

**Subject:** **State Aid SA.59682 (2020/N) – Luxembourg**
**COVID-19: Prolongation of and Amendment to SA.57708 - Reinsurance of short-term credit and surety risks**

Excellency,

## 1. PROCEDURE

(1) By electronic notification of 23 November 2020, Luxembourg notified, pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (hereinafter "TFEU"), an amendment of the State aid scheme SA.57708 "Luxembourg – COVID-19: Reinsurance of short-term credit and surety risks" (hereinafter: "the existing scheme"), approved by Commission decision C(2020)4535 final of 1 July 2020 (hereinafter: "the initial decision").

(2) On 29 January 2021, Luxembourg notified additional details of the scheme.

(3) Luxembourg exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958[1], and to have this Decision adopted and notified in English.

## 2. DESCRIPTION OF THE MEASURE AND THE PROPOSED AMENDMENT

(4) The existing reinsurance programme aims at avoiding a systemic crisis in the Luxembourgish economy. The programme ensures that trade credit and surety

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

Son Excellence Monsieur Jean ASSELBORN
Ministre des Affaires Etrangères
Rue Notre-Dame 5L
2911 Luxembourg

insurance continues to be available in the Luxembourgish economy within the pre-crisis limits to the largest possible extent. In particular, it ensures that private trade credit insurers retain the existing credit limits covered by trade credit and surety insurance.

(5) The Commission authorised the existing aid scheme on the basis of Article 107(3)(b) TFEU as aid to remedy a serious disturbance of the economy. The Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak ("the Temporary Framework")[2] is not applicable, because guarantees on credit insurance activities are not covered therein. However, for the Commission's assessment in the initial decision, the principles set out in the Temporary Framework served as a reference point.

(6) The amendment of the Temporary Framework allows measures under Section 3.2 to be granted until 31 December 2021 at the latest.

(7) Luxembourg wishes to prolong and introduce an amendment to the existing aid scheme, namely to amend the calculation of the loss ratio, which is an important parameter for the functioning of the existing and the amended scheme.

(8) The legal basis for the measure is the same as for the existing scheme, i.e. Article 9(1) point 2 of the Luxembourgish Law of 4 December 2019 governing the ODL and a reinsurance agreement to be signed between ODL, on behalf and for the account of the State, and the participating private credit insurers. Like the existing aid scheme, the measure will be implemented by way of bilateral agreements signed between ODL, on behalf and for account of the Luxembourgish State, and the participating private trade credit insurers.

### 2.1. Prolongation of the existing aid scheme

(9) Luxembourg explains that, given that the ongoing outbreak of COVID-19 continues to create extraordinarily high uncertainty in the economy, the existing support should be prolonged. Luxembourg explains that there is no expectation of a fast recovery in the near future and, consequently, a large number of companies operating in Luxembourg would face exacerbated liquidity problems and possibly a credit crunch unless provided with continued support in the form of trade credit and surety insurance.

(10) With its notification, Luxembourg intends to prolong the existing aid scheme to cover transactions up to 30 June 2021. Following the amendment, the contract term for the prolonged scheme will run from 1 January 2021 until 30 June 2021. Hence the measure will concern risks underwritten until 30 June 2021. The losses that occur after 30 June 2021 are covered by the measure if both the reinsurance contract between Office du Ducroire Luxembourg (hereinafter "ODL") and the insurer was signed and the underlying trade or transaction and invoicing took place before 30 June 2021 and if the claim is submitted before claims notifications deadline stated in the insurance contract and in any case before

[2] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

30 March 2025[3]. This is also the latest date until which a payment can be made under the prolonged scheme.

(11) The measure will be implemented by way of new bilateral reinsurance contracts, separate from the initial bilateral reinsurance contracts, which had the duration from 1 January 2020 until 31 December 2020. The new bilateral reinsurance agreements will be signed between the ODL, on behalf and for account of Luxembourg, and the participating private trade credit insurers and they will cover the period from 1 January 2021 until 30 June 2021.

### 2.2. Amendment to the calculation of the loss ratio

(12) The existing aid scheme defined the reinsurance mechanism in relation to gross losses expressed as percentage of the annual gross premium volume ("the loss ratio") (recital (30) of the initial decision).

(13) With its notification, Luxembourg intends to amend the calculation of the loss ratio in the new bilateral reinsurance agreements, for the risk period from 1 January 2021 until 30 June 2021, by expressing the loss ratio as percentage of gross losses in the double amount of the annual gross premium volume collected in that period.

(14) The Luxembourgish authorities explain the amended calculation by the desire to avoid that the threshold for higher State coverage would be triggered more quickly. The loss ratio will therefore increase at the same pace as if a full year of premium was being considered, and not twice faster. The Luxembourgish authorities consider that this ensures the proportionality of the aid to insurers, and therefore its compatibility with Article 107(3)(b) TFEU.

(15) Luxembourg commits to comply with the monitoring and reporting requirements laid down in recitals (28) and (38) of the initial decision.

(16) All remaining elements, including the budget of the existing scheme remain in place. Luxembourg confirmed that no other amendments are proposed to the existing scheme.

## 3. ASSESSMENT OF THE PROPOSED AMENDMENT

### 3.1. Existence of aid

(17) As already set out in the initial decision, the scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons set out in recitals (49) to (56) of the initial decision.

(18) The notified amendment does not affect the Commission assessment in that respect. The Commission therefore refers to the respective assessment of the initial decision and concludes that the existing aid scheme as modified constitutes State aid in the meaning of Article 107(1) TFEU. The Luxembourgish authorities do not contest that conclusion.

---

[3] By 31 March 2025 all accounts are to be settled under the bilateral reinsurance agreements between ODL, on behalf and for account of the Luxembourgish State, and the participating private trade credit insurers.

### 3.2. Lawfulness of the aid

(19) By notifying the amendments to the existing aid scheme before putting them into effect[4], the Luxembourgish authorities have respected their obligation under Article 108(3) TFEU.

### 3.3. Compatibility of aid

(20) In the initial decision, the Commission assessed the existing scheme based on general criteria for compatibility under Article 107(3)(b) TFEU, using the Temporary Framework as general guidance as far as appropriate.

(21) The Commission refers to its analysis of compatibility as set out in the recitals (57) to (97) of the initial decision as well as the analysis of compliance with the Short-term export-credit insurance Communication as set out in recitals (98) to (105) of the initial decision.

(22) The Commission has examined the notified amendments and concludes that they do not alter the Commission's conclusions on the compatibility of the existing aid scheme as set out in the initial decision.

(23) The Commission considers the prolongation of the existing aid scheme until 30 June 2021 (recitals (10) and (11)) to be in line with the continuous need to remedy a serious disturbance in the Luxembourgish economy. This is consistent with the extended possibilities to grant aid under the Temporary Framework until 31 December 2021.

(24) With regard to the proposed prolongation of the scheme in the form of new reinsurance agreements, separate from the initial agreements covering the year 2020, the Commission notes that the three-stage reinsurance mechanism (see recital (30) of the initial decision) implies that the actual risk and premium sharing over the entire duration of the scheme (1 January 2020 - 30 June 2021) may differ if losses are calculated separately under the two reinsurance agreements or jointly over the entire duration of the scheme. Specifically, a possible low loss rate for risks underwritten in the initial period and a significantly increased loss rate for risks underwritten in the prolonged period could lead to a higher coverage of losses by the State under two separate agreements than under a single agreement.

(25) The Commission considers that the changed loss ratio calculation is effective in mitigating the possible impact in the form of a higher State coverage resulting from the two separate profit and loss calculations, in particular in an adverse economic scenario. The Commission notes that a considerable uncertainty exists with respect to the loss rate on transactions underwritten in both periods and that such a scenario cannot be excluded. The Commission notes therefore that a further prolongation of the scheme must be considered against the economic scenario that prevails at that moment and on the basis of relevant information on the performance of the measure so that the compensating effect of the amended loss ratio calculation shall be preserved.

---

[4] The granting of aid will commence only after the Commission's approval has been formally notified to Luxembourg.

(26) The Commission notes that all remaining elements of the existing aid scheme remain unchanged, which will ensure further sustenance of the available credit and surety insurance coverage for the real economy.

(27) The Commission considers that the reasoning of the initial decision, namely to avoid a situation where private trade credit insurers substantially reduce limits as a standard risk mitigation technique, continues to be valid. In light of the changed loss calculation methodology, the Commission continues to consider the aid proportionate to address its desired objective.

(28) In light of the above, and in particular the prolongation of the Temporary Framework, which continues to be applied by analogy, the proposed prolongation of the existing aid scheme until 30 June 2021 is appropriate, necessary, and proportionate.

(29) The Commission notes that Luxembourg has committed to comply with the monitoring and reporting rules laid down in Section 4 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) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION