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Austria: Measures and prolongations under the Law on the stability of the financial markets and on strengthening the interbank market for credit institutions and insurance companies

Global Trade Alert

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▲ Austria: Measures and prolongations under the Law on the stability of the financial markets and on strengthening the interbank market for credit institutions and insurance companies

IMPLEMENTATION LEVEL	AFFECTED FLOW	ANNOUNCED AS TEMPORARY
National	Inflow	No

NON-TRADE-RELATED RATIONALE	ELIGIBLE FIRMS	JUMBO	TARIFF PEAK
No	all	No	No

← back to the state act

Inception date: 09 Dec 2008 | Removal date: 09 Jun 2011

▲ Capital injection and equity stakes (including bailouts)

On 31 October 2008 Austria notified the aid scheme to the Commission - State aid N 557/2008

The Republic of Austria published the Law on the stability of the financial markets and on strengthening the interbank market for credit institutions and insurance companies in Austria on 26 October 2008 in order to stabilise the financial market. The Law forms the legal basis for a package of measures aimed at strengthening the interbank market (Interbankmarktstärkungsgesetz (IBSG)) and a broader collection of measures for remedying a serious disturbance in Austria's economy (Finanzmarktstabilitätsgesetz (FinStaG))

The measures are aimed at strengthening the interbank market and remedying a serious disturbance in Austria's economy, securing macroeconomic equilibrium and protecting the Austrian economy and the financial market. The Austrian package of measures is in two parts:
A. instruments for providing liquidity, and
B. measures for strengthening an institution's equity or measures intended to stabilise the institution by other means, e.g. guarantees.
Credit institutions and insurance companies licensed in Austria are the beneficiaries of the measures.

The Commission stated that the guarantees under the IBSG and the measures provided for in the FinStaG constitute aid within the meaning of Article 87(1) of the EC Treaty in favour of banks and insurance companies and gave the following assessment:

'The guarantees for new liabilities and the recapitalisation measures will enable beneficiaries to acquire the necessary capital and liquidity on more favourable terms than would have been possible under the conditions prevailing in the financial markets. It will thus confer an economic advantage on beneficiaries and strengthen their position vis-ŕ-vis competitors in Austria and in other Member States, the measures at issue will distort competition and affect trade between Member States. The resulting advantage will be a selective one in that it will benefit only beneficiaries under the scheme and will be financed through state resources.' (par. 53 from the letter from the EC to Austria -

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Brussels, 9 December 2008 C(2008) 8408 final)

Article 87(3)(b) of the EC Treaty enables the Commission to declare aid compatible with the Common Market if it is "to remedy a serious disturbance in the economy of a Member State." This aid has to be applied restrictively and must tackle a disturbance in the entire economy of the Member State according to the interpretation of the Article 87(3)(b) by the Court of First Instance.

The Commission referred to its Communication on the financial crisis and concludes that the Measure complies with the conditions laid therein. Therefore, despite the measure constituting State aid pursuant to the Article 87(1) EC, it is compatible with the Common Market according to the Article 87(3)(b) EC Treaty. The Commission raises no objections against the measure at issue and authorizes it as emergency intervention in the face of the current financial crisis. (par. 60-114 of the letter).

Prolongation of the previous measures:
Austria notified by letter dated 20 May 2009 a prolongation request forits support measures to the banking and insurance industry until 31December 2009 - N 557/2008 (the Austrian scheme) - State aid N 352/2009.
As the financial crisis is still ongoing the Commission concludes that a prolongation of the measures is justified under Article 87(3)(b) EC Treaty.

Second prolongation:
On 30 November 2009, Austria notified the second prolongation request for its support measures to the banking and insurance industry until 30 June 2010.
The original scheme, which consisted of a package of measures to ensure the stability of the financial system, was notified on 31 October 2008 and approved by the Commission on 9 December 2008. The first prolongation of the scheme, including certain amendments, was adopted on 30 June 2009.
While FinStaG's validity is not limited in time, IBSG expires on 31 December 2009. The Austrian authorities plan to extend the validity of IBSG until 31 December 2010.
At the same time, the Austrian authorities seek to prolong the entry window of the existing scheme for the second time for a period of six months, until 30 June 2010.
Apart from the budget reduction of EUR 10 billion to EUR 80 billion from the initial EUR 90 billion, all other conditions of the scheme, as approved by the Commission Decisions in cases State aid N557/2008 and N352/2009, respectively, remain unchanged and continue to apply.

The Commission concludes that the notified measures constitute a State aid scheme within the meaning of Article 107(1) TFEU. Since the above-mentioned aid measure fulfils the conditions under Article 107(3)(b) TFEU, this aid measure is compatible with the internal market. The Commission has accordingly decided not to raise objections.

Third prolongation:
On 9 June 2010, Austria notified the third extension of its support measures to the banking and insurance industry until 31 December 2010.
Austria notified amendments in substance concerning (i) the total budget of the scheme, (ii) an increase in liability guarantee fees (in line with the new conditions set by the Commission) and (iii) the obligation to submit viability reviews for banks relying heavily on guarantees.

The budget will be reduced by EUR 15 billion to EUR 65 billion (from EUR 80 billion previously and EUR 90 billion in the original decision).
All other conditions of the scheme, as approved by the Commission Decisions in cases State aid N557/2008, N352/2009 and N663/2009, respectively, remain unchanged and continue to apply.

The Commission finds that the notified measures constitute a State aid scheme within the meaning of Article 107(1) TFEU. Since the above-mentioned aid measures fulfil the conditions under Article 107(3)(b) TFEU, they are compatible with the internal market. The Commission has accordingly decided not to raise objections.

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Fourth prolongation:
On 1 December 2010, Austria notified the fourth extension of its support measures to the banking and insurance industry until 30 June 2011.

The IBSG expires on 31 December 2010 and will not be prolongued.

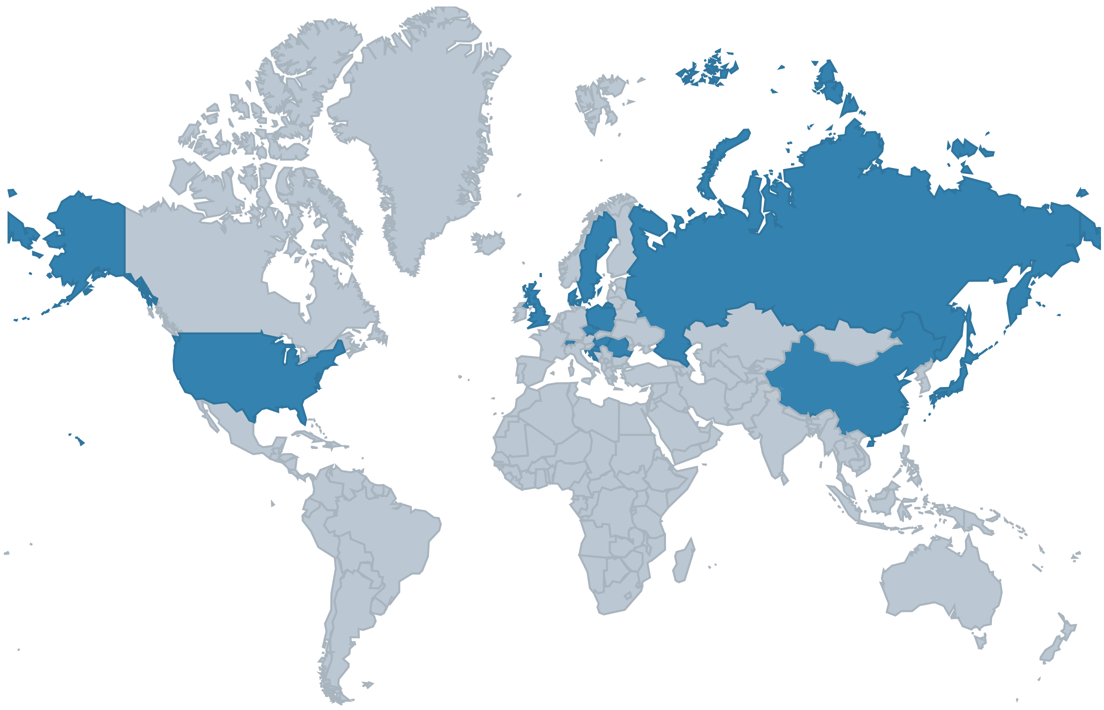
However, the Austrian authorities seek to prolong the entry window of the existing scheme under FinStaG for a period of six months until 30 June 2011. That request means that apart from the clearing bank all the forms of bank support measures covered by the scheme would remain available.

The changes in the scope of the scheme, i.e. the expiration of the IBSG, lead to a reduction of the overall budget to EUR 15 billion (as compared to EUR 90 billion in the original scheme and EUR 65 billion in the most recent prolongation).

The Commission finds that the notified measures constitute a State aid scheme within the meaning of Article 107(1) TFEU. Since the above-mentioned aid measures fulfill the conditions under Article 107(3)(b) TFEU, they are compatible with the internal market. The Commission has accordingly decided not to raise objections.

A state measure in the GTA database is assessed solely in terms of the extent to which its implementation affects the extent of discrimination against foreign commercial interests. On this metric, the state aid proposed here is discriminatory.

AFFECTED COUNTRIES (14)



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