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Greece Prolongation and amendment of the Support Measures for the Credit Institutions in Greece

European Union: European Commission: Directorate-General Competition

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EUROPEAN COMMISSION

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Subject: State Aid n° N 504/2009 – Greece
Prolongation and amendment of the Support Measures for the Credit Institutions in Greece

Madam,

I. PROCEDURE

1. By notification registered on 2 September 2009, Greece notified, following a number of pre-notification exchanges, a request to prolong and amend the scheme for the support measures for the credit institutions in Greece. The original scheme consisted of a package of measures designed to ensure the stability of the Greek financial system and was approved by Commission decision of 19 November 2008 in case N560/2008 for a period of six months (hereinafter referred to as 'original decision')[1].

II. DESCRIPTION

1. The objective of the scheme

2. In response to the exceptional turbulence in world financial markets, Greece brought forward a comprehensive package of measures (hereinafter referred to as "the scheme" or "financial support measures") designed to ensure the stability of the Greek financial system.
3. These measures consisted of a Bank recapitalisation scheme, a guarantee scheme as well as support through the issuance of Greek State special purpose securities to credit institutions (' the Bond Loan Scheme').

2. Description of the original scheme approved by Commission decision N560/2008

4. **Eligible institutions** are all credit institutions authorised to operate in Greece by license from the Bank of Greece. Subsidiaries of foreign institutions may also

[1] Commission Decision C(2008) 7382 of 19 November 2008 in case N560/2008, in OJ C 125, 5.06.2009, p.6.

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participate in the scheme without having to fulfil any additional conditions. The credit institutions will obtain, under the recapitalisation scheme, a Tier 1 capital ratio of above 8% which should be maintained for the duration of the scheme. The credit institutions will also need to fulfil the capital adequacy ratios set by the Bank of Greece, which corresponds with the aforementioned 8% of Tier 1 capital, in order to participate in the guarantee and bond loan scheme.

5. Under the original **recapitalisation scheme**, the Greek Government makes available Tier 1 capital to participating institutions by acquiring preference shares in order to build and maintain an adequate buffer of capital for each credit institution adequate to absorb any negative implications of the crisis and to maintain a Tier 1 ratio of no less than 8%. The preference shares are subject to partial or total redemption by the bank at the issue price after July 1 2009 subject to the approval by the Bank of Greece. If not redeemed at the end of a five year period, the preference shares are subject to conversion into common shares. The preference shares contain an annual fixed rate of return of 10% on the injected capital. They are non-cumulative and are considered as non-Core Tier 1 capital. The preference shares are non-transferable and non-negotiable. The preference shares entitle the Greek State to be represented in the Board of Directors by a representative who is appointed as a member to the Board of Directors with a veto power on dividend policy and top management remuneration.

6. Under the wholesale funding **guarantee scheme**, the Greek Government provides, in return for an appropriate remuneration, a State guarantee for debt instruments with a maturity of between three months and three years designed to re-open the market for short and medium term wholesale funding. The guarantees cover newly created debt (issued after November 19, 2008) except for subordinated debt and interbank deposits. The fee is calculated based on the procedure decided by the ECB. This means that for guarantees with duration of 3-12 months, there will only be a fee of 50 basis points or 25 basis points when collateral is provided. Guarantees with duration of more than 1 year will in principle be priced based on the median of five year CDS spreads of the concerned institution for the period 1/1/2007-31/8/2008 with an additional mark up of 50 basis points if the guarantee is uncollateralised or 25 basis points if it is collateralised. For the credit institutions that do not have a 5 year CDS the rate of remuneration is calculated according to the Eurosystem recommendations (for further details see para 25 of the original decision).

7. Under the **'bond loan'** scheme (the special purpose securities) the Greek Government issues, in return for remuneration and appropriate collateral, special purpose securities with maturity of up to three years to be lent to eligible credit institutions for enhancing their liquidity. Credit institutions can use these securities as collateral in the refinancing transactions or marginal lending facilities of the ECB and/or as collateral in interbank transactions for liquidity purposes. For borrowing the securities, the credit institutions pay a commission which is equal to the one that the credit institution would pay for receiving a State guarantee.

3. Operation of the Scheme up to May 2009

8. Pursuant to point 41 of the Banking Communication[2], Greece has submitted a report on the use of the scheme.

[2] Communication from the Commission – The application of State aid rules to measures taken in relation to financial institutions in the context of the current global crisis, OJ C 270, 25.10.2008, p. 8.

9. According to the Greek authorities, the scheme exhibits satisfactory performance in its first 6 months of implementation. A stock-taking of its effectiveness reveals that the measures adopted have provided a safety cushion that corresponds well to the market's needs.

10. More specifically, as regards the **recapitalisation scheme**, 9 banks have already subscribed to it in May 2009. In all cases, non-cumulative preference shares were issued by banks against the State's capital enhancement. A total of around EUR 4 billion (out of a maximum of EUR 5 billion) has already been absorbed which corresponds to 74% of the total amount available. The amounts allocated to each bank aim at developing a capital buffer, in order to absorb any negative implications of the crisis and to maintain a Tier 1 ratio of no less than 8%.

11. Regarding the functioning of the **guarantee scheme**, 3 Banks have received guarantees for issuing bonds of a total value of EUR 3 billion. Only 20% of the total amount available (i.e. out of a maximum EUR 15 billion) has already been absorbed.

12. In relation to **the bond loan scheme** (the special purpose securities), with duration of up to 3 years, 11 eligible credit institutions have already subscribed to it. A total of around EUR 4.5 billion (out of a maximum EUR 8 billion) has already been absorbed (i.e. around 60% of the total funds available). The bond loan scheme became functional right after the publication of the relevant Law. According to the Greek authorities, this measure was very effective as it provided the necessary liquidity to the system.

13. Overall, more than 40% of the plan's overall budget had been allocated by May 2009 (i.e. EUR 11.25 billion out of a total of EUR 28 billion).

4. Description of the proposed prolongation and the modifications to the scheme

14. The Greek authorities request an approval of the scheme until the end of December 2009. All features of the original scheme will remain unchanged apart from the following elements of the recapitalisation scheme:

15. In relation to the extended recapitalisation scheme, the Greek authorities propose to apply the Recapitalisation Communication[3] which was adopted in December 2008 i.e. after the approval of the original Greek scheme. The scheme approved by the original decision requires the presentation of a 'restructuring' plan where the recapitalisation measure has not been redeemed by the beneficiaries after 6 months from the granting of the measure.[4] In line with point 40 of the Recapitalisation Communication, the Greek authorities propose to provide 'viability' plans for the recapitalised institutions recapitalised under the extended scheme. However, restructuring plans are still required for the banks that have already been recapitalised.[5]

16. To this end, the Greek authorities will ensure that future beneficiary banks are fundamentally sound, which they scrutinise ex ante, and provide this information to the Commission at the time of the capital injection to allow it to take an informed view. If the Commission considers that the beneficiary institution cannot be

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3 Commission Communication on the recapitalisation of financial institutions in the current financial crisis (OJ C 10/2 of 15.1.2009).

4 See Commission decision of 19 November 2009 in case N560/2008, para. 14 and 63.

5 In order to facilitate the work of the Member States and the Commission, the Commission will be prepared to examine grouped notifications of similar restructuring cases, particularly where the aid amounts are relatively small and the beneficiaries can be clearly considered as fundamentally sound.

considered as fundamentally sound then the Greek authorities will notify a restructuring plan not later than 6 months after the injection of the capital. Furthermore, Greece will submit an individual notification for approval by the Commission if it intends to recapitalise a bank that has already benefitted from a capital injection from the State.

III. POSITION OF GREECE

17. In line with the original decision, the Greek authorities accept that the amended scheme contains state aid elements.

18. The Greek authorities submit that the economic and financial crisis is still exerting continuous pressures in the markets and thus it is appropriate to allow for sufficient time for the scheme to yield the desired results. A limited prolongation of the scheme's duration until the end of 2009 should prove beneficial for the restoration of confidence and the normalisation of the functioning of the markets. A letter from the Governor of the Bank of Greece also confirms that the prolongation of the scheme is necessary.

19. The Greek authorities commit that they will ensure that they scrutinise ex ante whether the banks to be recapitalised are fundamentally sound and provide all the relevant information (along with a list of beneficiary banks) to the Commission at the time of the capital injection to allow it to take an informed view. If the Commission concludes that the beneficiary institution cannot be considered as fundamentally sound then the Greek authorities commit to notify a restructuring plan not later than 6 months after the injection of the capital.

20. The Greek authorities also commit that, should they decide to inject further capital into a bank that has already been recapitalised under the Recapitalisation scheme, they will submit an individual notification before the measure is adopted.

IV. ASSESSMENT

1. State aid character of the extended and amended scheme

21. As set out in Article 87(1) EC, any aid granted by a Member State 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 Member States, is incompatible with the Common Market.

22. For the reasons indicated in the original decision, the Commission considers that the scheme constitutes state aid. The notified changes do not affect that finding. The scheme, with the notified amendments, remains state aid within the meaning of Article 87 (1) EC.

2. Compatibility of the Amended Financial Support Measures

23. The Commission acknowledges that the global economic and financial crisis is still ongoing exerting continuous pressures in the markets and thus affecting normal operations. The Commission agrees with Greece that the availability of State funds for banks' recapitalisation and the other parts of the scheme is playing a significant

role in restoring and maintaining public confidence as confirmed by the letter from the Central Bank. The Commission therefore recognises the need of the scheme for remedying serious disruptions to the economy of a Member State pursuant to Article 87 (3) (b) EC.

24. For the reasons indicated in the original decision, the Commission found the scheme to be compatible with the common market under Article 87(3) (b) EC of the Treaty, meeting the criteria of appropriateness, necessity and proportionality laid down in the Banking Communication.[6] The subsequent Recapitalisation and Restructuring Communications set out in greater detail the Commission's approach to these issues.[7] Given that the scheme remains largely unchanged and that the situation on the financial markets still remains strained, it is only necessary to assess whether the finding of compatibility still holds true also in view of the notified amendments.

25. The Commission recalls that the objective of the measure is to address the problems of lack of liquidity and lack of confidence and encourage healthy interbank lending in the context of the ongoing economic and financial crisis. It is thus important to ensure the availability of the scheme as long as the global financial crisis remains. As the markets have not yet returned to normal functioning, the Commission considers that the prolongation of the scheme until 31 December 2009 is appropriate and necessary to remedy the disturbance in the Greek economy. Since the extension of the scheme is targeted at filling the ongoing funding gap in Greece, the aid is therefore well targeted. Furthermore, given that the extension is limited to the end of December 2009, the potential distortion of competition will be limited.

26. The Commission notes that all behavioural conditions under the original scheme which help to ensure that the participating credit institutions do not expand their activities under the scheme will continue to apply.

27. The Commission notes that the amendments proposed by the Greek authorities in relation to the Recapitalisation scheme, in so far as fundamentally sound banks need only to undergo a viability review, are in line with the requirements set out in the Recapitalisation Communication which was adopted after the approval of the Greek scheme. In line with the Recapitalisation Communication, participating banks that are fundamentally sound need not provide a restructuring plan but may instead provide a report that illustrates that they remain fundamentally sound and how they plan to repay the state capital. This report contains all the elements indicated in paragraph 40 and the Annex of the Recapitalisation Communication. The Commission considers that this proposed amendment can be accepted.

28. The Greek authorities have also provided additional commitments in relation to the extended recapitalisation scheme. Firstly, they commit to scrutinise ex ante whether the banks to be recapitalised are fundamentally sound and provide all the relevant information to the Commission at the time of the capital injection to allow it to take an informed view. On this basis, if the Commission concludes that the beneficiary institution cannot be considered as fundamentally sound then the Greek authorities commit that the institution will provide a restructuring plan not later than 6 months after the injection of the capital. Secondly, they commit that should they decide to

[6] Commission communication on the application of state aid rules to measures taken in relation to financial institutions in the context of the current financial crisis, OJ C 270 of 25.10.2008.

[7] Commission Communication on the recapitalisation of financial institutions in the current financial crisis (OJ C 10/2 of 15.1.2009) and Commission communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules (OJ C195/9 of 19.8.2009).

inject further capital into a bank that has already been recapitalised under the recapitalisation scheme, they will notify this measure individually. Given that Greek banks already pay a remuneration which is above the upper bound referred to in the Recapitalisation Communication and independent of the risk profile of the bank, no adjustment of the remuneration will be needed.[8]

29. The Commission views these commitments positively, as they ensure that banks potentially in difficulty can be identified at an early stage and that measures, such as the submission and implementation of a restructuring plan, can be undertaken to ensure that the distortion of competition is kept to a minimum. The Commission will take into consideration the aid received by the beneficiary banks in the assessment of the restructuring plans to be presented by the participating institutions.

30. On the basis of the above, the Commission finds the proposed amendments compatible with the Common market as they are well targeted, proportionate and limited until the end of the year in line with the Commission's guidance Communications and its recent practice.

V. DECISION

The Commission concludes that the notified amended scheme is compatible with the Common market and has accordingly decided not to raise objections against the notified package, since it fulfils the conditions to be considered compatible with the EC Treaty.

The Commission notes that Greece accepts that the decision be adopted in the English language.

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Yours faithfully,
For the Commission

Neelie KROES
Member of the Commission

[8] See footnote 1 of paragraph 46 of the Recapitalisation Communication.