1-22-2013

Prolongation of the Guarantee Scheme and the Bond Loan Scheme for Credit Institutions in Greece

European Union: European Commission

Joaquin Almunia

EUROPEAN COMMISSION

Brussels, 22.01.2013
C(2013) 312 final

PUBLIC VERSION

This document is made available for information purposes only.

Subject: State aid SA.35999 (2012/N) – Greece
Prolongation of the Guarantee Scheme and the Bond Loan Scheme for Credit Institutions in Greece

Sir,

1. PROCEDURE

(1) On 19 November 2008[1], the Commission approved the support measures for the credit institutions designed to ensure the stability of the Greek financial system (hereinafter referred to as the "Original Decision"). On 2 September 2009, Greece notified a number of amendments to the support measures and a prolongation until 31 December 2009 that were approved on 18 September 2009[2]. On 25 January 2010[3], the Commission approved a second prolongation of the support measures until 30 June 2010. On 12 May 2010, the Commission approved an amendment to

[1] See Commission decision of 19 November 2008 in State Aid N 560/2008 "Support Measures for the Credit Institutions in Greece", OJ C 125, 05.06.2009, p. 6.

[2] See Commission decision of 18 September 2009 in State Aid N 504/2009 "Prolongation and amendment of the Support Measures for the Credit Institutions in Greece ", OJ C 264, 06.11.2009, p. 5.

[3] See Commission decision of 25 January 2010 in State Aid N 690/2009 "Prolongation of the Support Measures for the Credit Institutions in Greece", OJ C 57, 09.03.2010, p. 6.

• • • ••

Grèce - 10671 • • • • •

Commission européenne, B-1049 Bruxelles – Belgique
Europese Commissie, B-1049 Brussel – België
: 00-32-(0)2-299.11.11.

the Guarantee Scheme[4]. On 30 June 2010, the Commission approved a number of amendments to the support measures and an extension until 31 December 2010[5].

(2) On 21 December 2010 the Commission approved the extension of the support measures until 30 June 2011[6]. On 4 April 2011 the Commission approved an amendment to the support measures in the form of an increased ceiling of the Guarantee Scheme with an additional tranche amounting to EUR 30 billion[7]. On 30 June 2011, the Commission approved a prolongation of the support measures until 31 December 2011[8]. On 6 February 2012, the Commission approved an amendment to the support measures and a prolongation of the support measures until 30 June 2012.[9] On 6 July 2012, the Commission approved a prolongation of the support measures until 31 December 2012.[10]

(3) On 5 December and 14 December 2012, the Greek authorities submitted information regarding their intention to extend the support measures until 30 June 2013.

(4) On 24 December 2012, the Greek authorities notified a prolongation of the support measures until 30 June 2013.

(5) Further correspondence took place between the Greek authorities and the Commission services.

(6) For reasons of urgency, Greece accepts that exceptionally the present decision is adopted in the English language.

2. FACTS

2.1. Description of the schemes

(7) In November 2008, Greece brought forward a package of measures designed to ensure the stability of the Greek financial system. The purpose of those measures was to restore confidence and encourage healthy inter-bank lending, through i) the provision of liquidity, ii) the recapitalisation of the financial sector and iii) provision of a State guarantee to new debt issuance.

---

4 See Commission decision of 12 May 2010 in State Aid N 163/2010 "Amendment to the Support Measures for the Credit Institutions in Greece", OJ C 166, 25.06.2010, p. 2.

5 See Commission decision of 30 June 2010 in State Aid N 260/2010 "Extension of the Support Measures for the Credit Institutions in Greece", OJ C 238, 03.09.2010, p. 3.

6 See Commission decision of 21 December 2010 in State Aid SA.31998 (2010/N) "Fourth extension of the Support Measures for the Credit Institutions in Greece", OJ C 53, 19.02.2011, p. 2.

7 See Commission decision of 4 April 2011 in State Aid SA.32767 (2011/N) "Amendment to the Support Measures for the Credit Institutions in Greece", OJ C 164, 02.06.2011, p. 8.

8 See Commission decision of 30 June 2011 in State Aid SA.33153 (2011/N) "Fifth prolongation of the Support Measures for the Credit Institutions in Greece", OJ C 274, 17.09.2011, p. 5.

9 See Commission decision of 6 February 2012 in State aid SA.34149 (2011/N) "Sixth prolongation of the Support Measures for the Credit Institutions in Greece", OJ C 101, 04.04.2012, p. 2.

10 See Commission decision of 6 July 2012 in State Aid SA.35002 (2012/N) "Seventh prolongation of the Support Measures for the Credit Institutions in Greece", not yet published.

(8) A detailed description of the schemes is provided in the Original Decision, in particular recitals 2 to 5 concerning the legal basis and the objective of the scheme, and recitals 10 to 37 on the description of the measures.[11]

(9) In the context of the notification of 24 December 2012, Greece seeks approval under EU State aid rules of the prolongation of two schemes: i) a Wholesale Funding Guarantee Scheme for debt instruments with a maturity of between three months and three years in return for a fee ("the Guarantee Scheme"); and ii) support through the lending of Greek State special purpose securities to credit institutions, in return for a fee, to be used to obtain liquidity from the central bank and the interbank markets ("Bond Loan Scheme").

(10) Regarding the budget for the Guarantee and the Bond Loan Schemes, they stay respectively at EUR 85 billion and EUR 8 billion.[12]

2.2. Operation of the schemes according to an update of 30 November 2012

(11) On 14 December 2012 the Greek authorities submitted a report on the operation of the schemes.

(12) Regarding the functioning of the **Guarantee Scheme**, an amount of EUR 51.350 billion of guarantees was outstanding, i.e. around 58% of the total amount available of EUR 84.877 billion[13].

(13) Regarding the functioning of the **Bond Loan Scheme**, loans of Greek State special purpose securities were outstanding for an amount of EUR 2.768 billion, i.e. around 34% of the total amount available (EUR 8.123 billion).

3. POSITION OF GREECE

(14) Greece requests a prolongation of the two schemes for a further period of six months until 30 June 2013.

(15) Greece submits that the schemes constitute State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU"), but is of the view that the proposed prolongation is compatible with the internal market on

---

[11] Please note that the measures have been amended by national legislation approved in the following decisions: Commission decision of 18 September 2009 in State Aid N 504/2009, Commission decision of 12 May 2010 in State Aid N 163/2010, Commission decision of 30 June 2010 in State Aid N 260/2010, Commission decision of 21 December 2010 in State Aid SA.31998 (2010/N) and Commission decision of 4 April 2011 in State Aid SA.32767 (2011/N).

[12] See Commission decision of 4 April 2011 in State Aid SA.32767 (2011/N) "Amendment to the Support Measures for the Credit Institutions in Greece", OJ C 164, 02.06.2011, p. 8.

[13] The total budget of the Guarantee Scheme includes the initial budget of the Original Decision (EUR 15 billion), the increase in the budget carried out on 12 May 2010 (EUR 15 billion), the increase in the budget carried out on 30 June 2010 (EUR 25 billion), the increase in the budget carried out on 4 April 2011 (EUR 30 billion), except the amount of EUR 123 million which has been transferred from the budget of the Guarantee Scheme to the Bond Loan Scheme (see Commission decision of 30 June 2010 in State Aid case N 260/2010, recitals 7-8).

the basis of Article 107(3)(b) TFEU as it is necessary in order to remedy a serious disturbance in the economy of Greece.

(16) According to the Greek authorities, the Greek banking system continues to face acute funding problems like the capital and money markets remaining closed for the Greek credit institutions and the impact of the private sector deposit outflows.

(17) For those reasons, the Greek authorities consider that it would prove beneficial for the restoration of confidence and the normalization of the functioning of the markets to have the current prolongation of the schemes approved until 30 June 2013.

(18) Greece submitted a letter by the Bank of Greece further supporting the need for the proposed prolongation to safeguard the stability of the financial system in Greece, because prevailing market conditions do not allow for a termination of the schemes.

(19) In line with the requirements of the 2011 Prolongation Communication[14], Greece provided an indicative fee for each credit institution eligible to benefit from those guarantees. The estimation was based on an application of the scheme's remuneration formula and recent market data. The indicative fee for the guarantee covering debt with a maturity of less than one year as of November 2012 was 115 basis points (bp) or 90 bp, if the credit insitution had eligible collateral. The indicative fees for guarantees with a maturity of one year or more were 99 bp and 74 bp respectively. Those fees are applicable for all credit institutions in Greek as the individual credit default swap ("CDS") spreads still observed are no longer representative and therefore the Greek authorities will determine the guarantee fee for all banks on the basis of the CDS of the sample of banks in the lowest rating buckets ("BBB and below").

(20) Further Greece commits:

a) to grant aid measures under the support scheme only to solvent financial institutions which meet capital requirements;

b) to grant the guarantees under the support scheme only for new issuance of commercial bank senior debt (subordinated debt is excluded);

c) to provide guarantee only on debt instruments with maturities from three months up to five years and to limit the guarantees with a maturity of more than three years to one-third of the scheme's overall budget;

d) to impose a ban on advertisement referring to the State support on the beneficiaries of the scheme and to prevent them from employing any aggressive commercial strategies, which would not take place without the State support;

e) to submit an individual notification if a restructuring plan has already been submitted that did not foresee the envisaged guarantee or liquidity measure;

[14] Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis, OJ C 356, 6.12.2010, p. 7.

f) to submit individual restructuring or liquidation plans, within six months, for banks which cause the guarantee to be called upon;

g) to determine the minimum level of State guarantee remuneration according to the formula set out in the Commission's Communication on the application, from 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis;

h) to communicate to the Commission, within three months following each issuance of guaranteed bonds, the actual fee charged;

i) to report on the operation of the scheme and on guaranteed issuance by 15 April 2013 (for the period 1 January 2013 to 31 March 2013) and by 15 July 2013 (for the period 1 January to 30 June 2013) at the latest;

j) to complement reports on the operation of the scheme with updated available data on the cost of comparable (nature, volume, rating, currency) non-guaranteed debt issuances;

k) to present a viability review for every financial institution that is granted guarantees on new liabilities or renewed liabilities for which at the time of the granting of new guarantee, the total outstanding guaranteed liabilities (including guarantees accorded before the date of this decision) exceed both a ratio of 5% of total liabilities and the total amount of EUR 500 million. The viability review should be presented on the basis of the parameters established in the Restructuring Communication[15] within three months of the granting of the guarantees.

4. ASSESSMENT

4.1. Existence of State Aid

(21) According to Article 107(1) TFEU, 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, be incompatible with the internal market.

(22) For the reasons indicated in the original decision, the Commission considers that the schemes constitute State aid within the meaning of Article 107(1) TFEU, because it concerns the provision of State resources to a certain sector, i.e. financial sector, which is open to intense international competition. Under the schemes, participating credit institutions obtain guarantees and liquidity support under conditions which would not be available to them under market conditions, and so receive an advantage. Given the characteristics of the financial sector, any advantage from State resources to a credit institution affects intra-Union trade and therefore threatens to distort competition. The measures therefore constitute State aid within the meaning of Article 107(1) TFEU.

[15] Commission Communication on the return to viability and the assessment of the restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195 of 19.8.2009, p. 9.

4.2. Compatibility

(23) Under the schemes Greece intends to provide aid in the form of guarantees and liquidity support in favour of credit institutions.

(24) Given the exacerbation of tensions in sovereign debt markets that has taken place since 2011, the Commission considers it appropriate to examine the measure under Article 107(3)(b) TFEU.

(25) Article 107(3)(b) TFEU empowers the Commission to find that aid is compatible with the internal market if it is intended "to remedy a serious disturbance in the economy of a Member State". The Commission has acknowledged that the global financial crisis can create a serious disturbance in the economy of a Member State and that measures supporting banks are apt to remedy that disturbance. That assessment has been confirmed in the Recapitalisation Communication[16] and the Restructuring Communication. The Commission still considers that requirements for State aid to be approved pursuant to Article 107(3)(b) TFEU are fulfilled in view of the reappearance of stress in financial markets. The Commission confirmed that view by adopting the 2010 Prolongation Communication[17], which prolonged until 31 December 2011 the application of State aid rules to support measures in favour of banks in the context of the financial crisis. The Commission has since extended the application of those rules beyond 31 December 2011 under the 2011 Prolongation Communication.

(26) The Commission does not dispute the position of the Greek authorities that the Greek credit institutions still face funding problems and hence finds that the scheme aims at remedying a serious disturbance in the Greek economy.

(27) Therefore, the Commission continues to base its assessment of State aid measures in the banking sector on Article 107(3)(b) TFEU.

Appropriateness

(28) The objective of the Guarantee and the Bond Loan Schemes is to temporarily offer appropriate measures to establish backstops for the financial system in a timely and efficient manner, where credit institutions face difficulties in obtaining sufficient funding. The Commission observes that the continuing crisis has eroded confidence in the creditworthiness of the credit institutions, which results in difficulties in obtaining necessary funding on the financial markets. Hence, a backstop mechanism by the Member State, which in case of urgency ensures that the credit institutions would have access to funding, is an appropriate means to strengthen financial institutions and thus to restore market confidence.

---

[16] Commission Communication - Recapitalisation of financial institutions in the current financial crisis: limitation of the aid to the minimum necessary and safeguards against undue distortions of competition, OJ C 10, 15.1.2009, p. 2.

[17] Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of banks in the context of the financial crisis, OJ C 329, 7.12.2010, p. 7.

Necessity

(29) With regard to the scope of the measure, the Commission notes that Greece has limited the size of the Guarantee Scheme by determining its maximum budget at EUR 85 billion and that of the Bond Loan Scheme at EUR 8 billion. Furthermore, the schemes apply for a limited period until 30 June 2013.

(30) The Commission notes that Greece has committed to follow the pricing and other conditions for State guarantees as laid down in the 2011 Prolongation Communication which requires, in particular, the application of a new pricing method based largely on market data.

(31) As already observed in the last two prolongation decisions, the CDS of large banks in Greece continue to be dramatically inflated by the sovereign risk. On that basis, as already authorised in the two previous prolongation decisions, the Commission does not object to Greece continuing to determine the guarantee fee for banks which still have a traded CDS on the basis of the CDS of the sample of Union banks in the "BBB- and lower" rating category. The Commission will review its assessment of the macro-economic situation and appropriateness of that exceptional pricing mechanism whenever a further prolongation/extension of the scheme is notified.

(32) Therefore, the Commission considers the measures as limited to the minimum necessary.

Proportionality

(33) As regards proportionality, Greece committed to present a viability review for any bank that requests new guarantees under a scheme which take or keep the total amount of the bank's outstanding guaranteed liabilities above 5% of the bank's total liabilities and above the absolute amount of EUR 500 million. That commitment ensures that the use of the guarantee scheme will not enable banks with structural weaknesses in their business models to postpone or avoid the necessary adjustments.

(34) Second, the Commission notes that Greece has committed to a number of behavioural safeguards such as a ban on advertisements referring to the State support and a ban on any aggressive commercial strategies which would not take place without the State support. Such safeguards help ensure that the participating institutions do not misuse the received State support to expand their activities.

(35) Finally, the Commission welcomes that Greece undertakes to submit individual restructuring or liquidation plans, within six month, for banks which cause the guarantee to be called upon.

(36) As regards the combination of the scheme with other aid measures, the Commission recalls that, as indicated in the Annex to the Restructuring Communication, the restructuring plans to be submitted should contain all State aid received as individual aid or under a scheme during the restructuring period.

(37) Furthermore, based on point 16 of the Restructuring Communication, the Commission recalls that, should further aid not initially foreseen in a notified restructuring plan be necessary for the restoration of viability, such additional aid

cannot be granted under an approved scheme but needs to be subject to individual ex ante notification. All State aid measures received by a bank as individual aid or under the scheme during the restructuring period will be taken into account in the Commission's final decision on that bank.

Monitoring

(38) The Commission welcomes that Greece undertakes to present every three months a report on the operation of the scheme and on guaranteed issuances and to complement it with updated available data on the cost of comparable (nature, volume, rating, currency) non-guaranteed debt issuances.

4.3. Conclusion

(39) The prolongation of the Guarantee Scheme and the Bond Loan Scheme remains an appropriate, necessary and proportionate measure to remedy a serious distortion of Greek economy and does not alter the Commission’s previous assessment in the original decision of 19 November 2008 and the prolongation or amendment decisions of 18 September 2009, 25 January 2010, 12 May 2010, 30 June 2010, 21 December 2010, 4 April 2011, 30 June 2011, 6 February 2012 and 6 July 2012. The notified prolongation therefore complies with the requirements set out above and is compatible with the internal market pursuant to Article 107(3)(b) TFEU.

(40) In line with the Commission’s decisional practice the scheme "Prolongation of the Guarantee Scheme and the Bond Loan Scheme for Credit Institutions in Greece" can therefore be prolonged until 30 June 2013. Any further prolongation/extension will require the Commission’s approval and will have to be based on a review of the developments in financial markets and the scheme’s effectiveness.

5. DECISION

The Commission has accordingly decided not to raise objections to the schemes and to consider the aid to be compatible with the internal market.

Greece exceptionally accepts that the present decision be adopted in the English language, for reasons of urgency.

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 by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
J70 03/225
B - 1049 Brussels
Fax No: +32 2 296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President