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

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Subject: State aid SA.36956 (2013/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

[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.

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Commission approved an amendment to 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 22 January 2013, the Commission approved a prolongation of the Guarantee and the Bond Loan Scheme only until 30 June 2013.[11]

(4) On 2 July 2013, the Greek authorities officially notified a prolongation of the support measures until 31 December 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.

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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", OJ C 77, 15.03.2013, p. 14.

11 See Commission decision of 22 January 2013 in State aid case SA.35999 (2012/N) "Prolongation of the Guarantee Scheme and the Bond Loan Scheme for Credit Institutions in Greece", OJ C 162, 07.06.2013, p. 6.

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.

(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.[12]

(9) In the context of the notification of 2 July 2013, 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.[13]

2.2. Operation of the schemes according to an update of 31 May 2013

(11) On 28 June 2013 the Greek authorities submitted a report dated 31 May 2013 on the operation of the schemes.

(12) Regarding the functioning of the **Guarantee Scheme**, an amount of EUR 49 billion of guarantees was outstanding, i.e. around 58% of the total amount available of EUR 84.8 billion[14].

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[12] 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).

[13] 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.

[14] 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).

(13) Regarding the functioning of the **Bond Loan Scheme**, loans of Greek State special purpose securities were outstanding for an amount of EUR 1.5 billion, i.e. around 19.5% of the total amount available (EUR 8.1 billion).

3. POSITION OF GREECE

(14) Greece requests a prolongation of the two schemes until 31 December 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 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 is currently undergoing a major restructuring, an aim of which is to restore normal financing conditions in the real economy. However, for the time being, the liquidity situation of banks remains weak. Although reliance of banks on Eurosystem financing has been steadily declining, banks continue to rely on the Eurosystem for the bulk of their liquidity needs.

(17) For those reasons, the Greek authorities consider that the support scheme remains an important supplementary element in maintaining and enhancing the liquidity of the banking system and request its prolongation since the prevailing market conditions do not allow for a termination of the schemes.

(18) Greece submitted a letter by the Bank of Greece also confirming the need for the prolongation of the two measures of the support scheme i.e. the State guarantees and the special purpose securities issued by the Greek State until the end of December 2013.

(19) In line with the requirements of the 2011 Prolongation Communication[15], 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 104 bp and 79 bp respectively. Those fees are applicable for all credit institutions in Greece 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 representative European banks in the lowest rating buckets ("BBB and below").

[15] 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.

(20) Furthermore, Greece commits:

a) to grant aid measures under the support scheme only to solvent credit institutions which have no capital shortfall;[16] banks which have already received approved rescue aid at the date of entry into force of the 2013 Banking Communication, i.e. before 1 August 2013 but have not yet obtained a final approval of the restructuring aid can also receive support under a scheme without individual notification. In such cases an update to the restructuring plan has to be submitted if the restructuring plan had not already provided for the envisaged guarantee measure;

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

c) 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;

d) to submit individual restructuring or liquidation plans[17], within two months, for the banks which cause the guarantee to be called upon;

e) to determine the minimum level of State guarantee remuneration in line with the formula set out in the 2011 Prolongation Communication;

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

g) to present a restructuring plan, within two months of the granting of the guarantees, for every credit institution that is granted guarantees on new liabilities or on 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;

h) to report on the operation of the scheme and on guaranteed issuances by 15 October 2013 (for the period 1 July 2013 to 30 September 2013) and by 15 January 2013 (for the period 1 October to 31 December 2013) at the latest;

16 "No capital shortfall" according to the most recent Union-wide capital exercise (the 2011 EBA capital exercise required at least a capitalisation of 9% as defined by EBA) or other equivalent national exercises by the national supervisory authority.

17 The plan must be prepared on the basis of the parameters established in the 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 (the "Restructuring Communication"), OJ C 195, 19.8.2009, p. 9.

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

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 they concern 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.

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. In its decision of 22 January 2013, the Commission found the measures compatible with the internal market under Article 107(3)(b) TFEU because they were apt to remedy a serious disturbance in the Greek economy.

(24) The Commission first notes that the financial markets have not yet fully returned to normal functioning and that Article 107(3)(b) TFEU remains in principle applicable in the financial sector. In particular, the exacerbation of tensions in sovereign debt markets that has taken place since 2011 has put the banking sector under increasing pressure, particularly in terms of access to term funding markets.

(25) The Commission also observes that the prolongation of the schemes is a response to the continuing financial difficulties that Greece, as most Member states, continues to experience. The Commission does not dispute the position of the Greek authorities, which is also confirmed by the Central Bank of Greece, that the liquidity position of Greek banks remains weak, with banks continuing to face funding problems and to rely on the Eurosystem for the bulk of their liquidity needs. Since the objective of the measures is to provide short- and medium-term financing to credit institutions which might have difficulties to obtain funds on the financial markets, the Commission supports the retention of the schemes as long as the global financial crisis continues. The Commission therefore considers that the prolongation of the schemes is a necessary and

appropriate measure to maintain and enhance the liquidity of the banking system and to remedy a serious disturbance in the Greek economy.

(26) The Commission also notes that there were no changes to the schemes which would alter its compatibility assessment of the previous decisions. With regard to the scope of the measure, the Commission notes that Greece has limited the size of the Guarantee Scheme by fixing 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 31 December 2013.

(27) The Commission also notes that Greece has undertaken a number of commitments, as indicated in section 3, including commitments on the pricing for the State guarantees and the submission of restructuring plans.

(28) As regards the combination of the schemes 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.

Monitoring

(29) 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 (as regards nature, volume, rating, currency) non-guaranteed debt issuances.

4.3. Conclusion

(30) The prolongation of the Guarantee Scheme and the Bond Loan Scheme remains an appropriate, necessary and proportionate measure to remedy a serious disturbance of the 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, 6 July 2012 and 22 January 2013. 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.

(31) In line with the Commission's decisional practice the schemes can therefore be prolonged until 31 December 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 schemes' effectiveness.

5. DECISION

The Commission has accordingly decided 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.

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Your request should be sent by registered letter or fax to:

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State Aid Greffe
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Fax No: +32 2 296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President