COMMISSION OF THE EUROPEAN COMMUNITIES

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PUBLIC VERSION

WORKING LANGUAGE

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Subject: N 253/2007 – Slovenia - Risk capital measure in Slovenia

Dear Madam/Sir,

1. PROCEDURE

(1) By letter dated 4 May 2007, registered on the same day, the Slovenian authorities notified, according to Article 88 (3) of the EC-Treaty, the above-mentioned measure. The measure was notified on the basis of the Community Guidelines on State aid to promote risk capital investments in small and medium-sized enterprises[1] (hereinafter "Guidelines").

(2) As the information received was not sufficient, the Commission considered the notification to be incomplete. By letter of 22 June 2007, the Commission asked the Slovenian authorities for additional information. The Slovenian authorities responded by letter dated 13 August 2007. The Commission asked the Slovenian authorities for additional information on 11 October 2007, to which the Slovenian authorities responded on 4 December 2007. By letter dated 1 February 2008, the Commission asked the Slovenian authorities for additional information, to which the Slovenian authorities responded on 29 February 2008. The Commission asked the Slovenian authorities for additional information by letter dated 16 April 2008, to which the Slovenian authorities responded on 8 May 2008.

[1] OJ C 194, 18.8.2006, p. 2.

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2. DESCRIPTION OF THE AID MEASURE

2.1. Objective

(3) The objective of the measure is to facilitate the provision of risk capital to small and medium-sized enterprises (SMEs) in their early and expansion stages in Slovenia, by providing tax advantages to private equity fund vehicles (risk capital companies, RCCs), as defined in the Risk Capital Companies Act, and investors in the RCCs.

2.2. Legal basis, granting authority, budget and duration

(4) The legal basis of the scheme is the Risk Capital Companies Act (ZDTK)[2] which defines the structure of the RCCs and the qualifying investments. An additional legal basis is the Corporate Income Tax Act (ZDDPO-2)[3], the Personal Income Tax Act (ZDoh-2)[4] and the Companies Act (ZGD-1). There is a stand still clause in the tax law that the aid under the scheme cannot be granted before the Commission's approval.

(5) The granting authority is the Tax Administration of the Republic of Slovenia. Under the Tax Procedure Act[5], the tax authority will perform fiscal supervision of the scheme and will be reporting to the Ministry of the Economy which is responsible for the supervision of the RCCs.

(6) The estimated total revenue forgone is EUR 5 million. The duration of the scheme is from the date of the Commission approval until 31.12.2013. The Slovenian authorities committed themselves to notify an extension of the scheme after its expiry.

2.3. The Funds

(7) According to the Slovenian authorities, the objective of the measure is to create tax-transparent risk capital funds in order to ensure that the income generated by the RCCs is only taxed at the level of investors and not additionally taxed at the level of the RCCs.

(8) The RCCs are private equity fund vehicles, established for the purpose of making the qualifying risk capital investments under the conditions set forth in the Risk Capital Companies Act. The RCCs can be constituted in the form of a dual company, a limited liability company, a share company or a limited partnership, as defined in the Companies Act.

(9) The RCCs can be established by domestic or foreign individuals, domestic and foreign legal entities, and affiliates of foreign legal entities in Slovenia. The state has no discretionary powers to approve the establishment of the RCC. If a company meets the conditions of the Risk Capital Companies Act, the state is obliged to approve the establishment of the RCC. The RCCs will be audited by accredited auditors to ensure that the operations of the RCCs comply with the provisions of the Risk Capital Companies Act.

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2 Official Journal of the Republic of the Republic of Slovenia, No. 92/2007.

3 Official Journal of the Republic of the Republic of Slovenia, No. 117-5014/2006.

4 Official Journal of the Republic of the Republic of Slovenia, No. 117-5013/2006.

5 Official Journal of the Republic of Slovenia, No. 117/2006.

(10) The qualifying risk capital investments under the scheme must constitute at least 50% in the total investments made by each RCC. The RCCs are legally required to have separate accounts for the qualifying risk capital investments and non-qualifying investments. This will ensure that only the qualifying profits are entitled to the tax relief under the scheme.

(11) Under the scheme in question, the RCCs are entitled to 100% income tax relief (reduction of a tax rate) on the capital profits from the disposal of the qualifying risk capital investments. Other investment income of the RCCs which do not qualify under the notified scheme is subject to the standard corporate income tax.

2.4. Investors

(12) To encourage investments in the RCCs, the measure provides tax relief to investors, operating in Slovenia. The investors can be domestic or foreign individuals, domestic and foreign legal entities, and affiliates of foreign legal entities in Slovenia. Investors must subscribe to the RCCs as ordinary shareholders. The minimum investment threshold in a RCC is EUR 50 000 per investor.

(13) Investors in the RCCs can be private individual and corporate investors as well as public institutional investors, as defined under the public law. Private independent investors must provide at least 30% of funding to the RCC. Public investors are expected to invest on market terms, with the objective of realisation of profits, and under the same conditions as private investors (pari passu), i. e. public and private investors will share exactly the same upside and downside risks and rewards and hold the same level of subordination.

(14) The Government does not influence the selection of investors under the scheme. Investors are free to decide in which RCC and under what conditions to invest. The responsibility for the risk associated with the investment in the RCCs remains entirely with the investors.

(15) Corporate investors are entitled to a 100% tax exemption on capital gains (reduction of a tax base) arising from the disposal of the qualifying investments in the RCCs. Under the Corporate Tax Act, all corporate investors are normally entitled to a 50% reduction of the taxable profit from the disposal of any equity shareholdings, which is considered to be a general measure. The proposed measure would thus offer an additional 50% tax reduction related to the qualifying investments.

(16) Individual investors are entitled to a 100% personal income tax relief (reduction of the tax rate from 20% to 0%) on capital gains from the disposal of the qualifying investments in the RCCs. Under the Personal Income Tax Act, a private investor's capital gains are normally taxed at the 20% income tax rate, reduced by 5% for every 5 years of holding of the shares (0% after a 20 years holding period), which is considered to be a general measure.

2.5. Investee enterprises

(17) The measure provides seed, start-up and expansion financing[6] to small and medium-sized enterprises (SMEs), falling within the Community SME-definition[7], located in Slovenia

[6] For the purpose of the scheme, seed, start-up and expansion financing is defined as follows:

- Seed stage financing is provided to research, assess and develop an initial concept before a business has reached the start-up phase.

which qualifies as an assisted area under Article 87(3) (a) of the EC Treaty[8]. All EEA bodies with permanent establishments in Slovenia are eligible for investments under the scheme. The qualifying SMEs must be unquoted, i. e. they must not be listed on the official list of a stock exchange or on an unlisted securities market of a stock exchange.

(18) Investments shall be made in economically viable SMEs. SMEs in financial difficulties within the meaning of the Community Guidelines on State aid for Rescuing and Restructuring Firms in Difficulty[9] are not eligible for investments under the scheme. Under the legal basis of the scheme, investments whose purpose is to restructure commercial enterprises are not classed as risk capital.

(19) Investments under the measure are not targeted to any particular sector. The RCCs will be able to invest in all sectors of the economy in all regions of Slovenia, except for investments to enterprises in the shipbuilding[10], coal[11] and steel industry[12], which are excluded from the scheme. In addition, investments will not be provided to export to export-related activities, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity, as well as aid contingent upon the use of domestic in preference to imported goods.

2.6. Investment structure

(20) The total maximum size of investment tranche per SME over a period of 12 months is EUR 1.5 million. Follow-on investments in the same SME which received an initial investment under the scheme are eligible. Such follow-on investments will be made under the same conditions as the initial risk capital investments, i. e. up to EUR 1.5 million investment tranche per target SME over each 12-month period.

(21) The tax relief under the measure applies only to the qualifying risk capital investments, which is exclusively equity capital. The purpose of the equity investment is to increase a nominal capital a company or establish a new company.

(22) Investment in one company or an entity associated with it cannot exceed 25% of the portfolio of the RCC. The equity investments must be retained for more than 10 years, but

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- Start-up capital is financing for product development and initial marketing, i. e. for companies which have not sold their products commercially and are not yet generating a profit.

- Expansion capital is financing for the growth and expansion of a company which is breaking even or trading profitably for increasing production capacity, market or product development, and/or to provide additional working capital.

7 OJ L 124, 20.05.2003, p.36.

8 The Slovenian regional aid map 2007-2013, State aid N 434/2006, OJ C 256, 24.10.2006

9 OJ C 244, 1.10.2004, p. 2

10 The definition is laid down in the Framework on State Aid to Shipbuilding, OJ C 317, 30.12.2003, p. 11

11 The definition is laid down in the Framework on State Aid to Shipbuilding, OJ C 317, 30.12.2003, p. 11

12 The definition is laid down in Annex 1 to the Guidelines on National Regional Aid 2007–2013, OJ C 54, 04.03.2006, p. 13

no longer than 12 years, unless the value of shareholding exceeds 25% of the balance sheet of the RCC.

2.7. Profit-driven investment decisions

(23) There is an explicit legal requirement that the RCCs must invest, manage and dispose investments under the scheme for the exclusive purpose of acquiring profits. In addition, according to the Slovenian authorities, the RCCs are commercial enterprises, as defined under the Companies Act (ZGD-1) and, by definition, a particular form of company the purpose of which is to make a profit.

(24) According to the Slovenian authorities, the participation of private investors in the RCCs (minimum 30%) will also ensure the profit-driven character of investment decisions. Private investors are expected to operate according to market principles and therefore take investment decisions on the basis of a real and detailed business plan, careful analysis and a feasibility assessment of each investment, exit possibilities and considerable prospects for profit.

(25) The profit-driven character of investments is further demonstrated by the nature of the scheme itself. According to the Slovenian authorities, given that the tax advantage under the scheme depends on the profitability of the RCCs, it shall provide an additional incentive for the investors to seek profitable investments and ensure that the management seeks the best investment returns.

2.8. Investment management

(26) There is an explicit legal requirement that the RCC shall be managed by a separate management company. The articles of association of the RCCs must specify the management company. If the RCC is organised in the form of a limited liability partnership with share capital, its legal representative shall be the general partner.

(27) The RCCs will be managed by professionals from the private sector, chosen freely by the market according to a non-discriminatory procedure on the basis of a proven experience and track record and, ideally, from those sectors targeted by the funds. The government does not influence the selection of the management of the RCCs.

(28) The corporate law impose strict duties on the management in relation to the exercise of their duties. The management, therefore, shall manage the companies (i. e. the RCCs) with diligence and skill for the benefit of the shareholders (i. e. the investors). The RCC management is free to seek potential investments and negotiate the best sales price on behalf of the investors, as the management is legally responsible to exercise due diligence and is responsible to the investors.

(29) According to the Slovenian authorities, given that RCCs will be established by the investors seeking profits, at least 30% of which are private independent investors, and given that the tax relief depends on the profitability of the RCCs, this would ensure that the management of the RCCs is effected on a commercial basis, with a view to optimising the return for their investors, based on the best industry practices.

(30) The rights and obligations of the management will be specified in the management agreement of the RCCs. The management agreement will lay down the objectives and envisaged timetable of investments, the method of adopting investment decisions, the supervision of the management and will regulate the remuneration of the management and

bonuses. Following the industry practice, it is expected that the managers of the RCCs shall receive performance-related remuneration to ensure the commercial investment decisions.

(31) According to the Slovenian authorities, private investors will be involved in the decision-making process through an independent investors' or advisory committee, proportionate to their investment share in the RCC (min. 30%). While the management remains legally responsible for the management of the RCCs, the investors' and advisory committee will provide advice and support to the management of the RCCs.

(32) According to the Slovenian authorities, the management of the RCCs is not subject to regulatory supervision in Slovenia. Instead, the tax authority will be responsible for ensuring that the RCCs comply with the provisions of the scheme. In addition, if there are any breaches of the company law in relation to the investment of the RCCs, the law will be legally enforced.

2.9. Cumulation with other aid

(33) If the capital provided to a target enterprise under the measure is used to finance initial investment or other costs eligible for aid under other State aid rules, the relevant aid ceilings will be reduced by 20% for target SMEs during the first three years of the first risk capital investment and up to the total amount received.

2.10. Reporting and monitoring

(34) The Slovenian authorities undertook to comply with the reporting and monitoring provisions set out in point 7.1 of the RCG. They undertook to submit annual reports to the Commission containing a summary table with a breakdown of the investments effected by a fund or under the risk capital measure including a list of all the enterprise beneficiaries of risk capital measures as well as a brief description of the activity of investments funds with details of potential deals scrutinised and of the transactions actually undertaken as well as the performance of investment vehicles with aggregate information about the amount of capital raised through the vehicle.

(35) The measure will not be applied before its full text has been published on the internet. The Slovenian authorities will communicate an internet address where the measure will be published. The measure will not be applied before the information is published on the internet.

(36) The Slovenian authorities undertook to maintain for at least 10 years detailed records regarding the granting of aid for the risk capital measure containing all information necessary to establish that the conditions laid down in the RCG have been observed, notably as regards the size of the tranche, the size of the company (small or medium-sized), the development stage of the company (seed, start-up or expansion), its sector of activity (preferably at 4 digit level of the NACE classification) as well as information on the management of the funds and on the other criteria mentioned in these guidelines.

3. ASSESSMENT

(37) The Commission has assessed the measure under scrutiny in the light of Article 87(1) EC Treaty and in particular on the basis of the Risk Capital Guidelines which specify the general provisions of the EC-Treaty in the field of risk capital measures targeting SMEs.

3.1. Existence of State aid

(38) The Commission has examined the measure on the basis of the Community Guidelines on State aid to promote risk capital investment in small and medium-sized enterprises (the Guidelines)[13], which set out the application of Article 87(1) in the field of risk capital measures to SMEs. In order for a risk capital measure to fall within the scope of Article 87(1) EC Treaty, four cumulative criteria must be met:

- the measure must involve the use of State resources;
- the measure must distort competition by conferring an advantage on certain undertakings;
- the advantage must be selective in that it is limited to certain undertakings;
- the measure must be likely to affect trade between Member States.

(39) In line with section 3.2 of the Guidelines, the assessment of the presence of State aid within the meaning of the Treaty will consider the possibility that the measure may confer aid on at least three different levels:

- aid to investors;
- aid to an investment fund, investment vehicle and/or its manager;
- aid to the enterprises in which investment is made.

3.1.1. State aid to investors

(40) In accordance with section 3.2 of the Guidelines, where private investors make investments on terms more favourable than public investors, or than if they had undertaken such investments in the absence of the measure, then those private investors will be considered to receive an advantage.

(41) Concerning the tax relief under the scheme in question to individual investors, these are not undertakings, and therefore Article 87 (1) EC does not apply to them. Therefore, the Commission considers that at the level of individual investors the notified measure does not constitute State aid within the meaning of Article 87(1) EC Treaty.

(42) Concerning corporate investors, an additional 50% tax reduction related to the qualifying investments in the RCC provides selective advantage to certain undertakings. Therefore, the Commission considers that at the level of corporate investors the notified measure constitutes State aid within the meaning of Article 87(1) EC Treaty.

3.1.2. State aid to the RCCs

(43) As regards the RCCs, the Commission in general tends to the view that a fund is a vehicle for the transfer of aid to investors and/or enterprises in which the investment is made, rather than being an aid beneficiary itself pursuant to section 3.2 of the Guidelines. However, measures such as fiscal measures or other measures involving direct transfer in favour of an investment vehicle or an existing fund with numerous and diverse investors

13 OJ C 194, 18.08.2006, p. 2-21.

with the character of an independent enterprise may constitute aid unless the investment is made on terms which would be acceptable to a normal economic operator in a market economy and therefore provide no advantage to the beneficiary.

(44) The measure provides fiscal advantage to the RCCs for the eligible investments under the scheme. The measure involves State resources as the tax relief given to the RCCs is the income tax revenues foregone for the Exchequer. Given that not all investment funds qualify as the RCCs, the measure therefore is selective. The measure has a potential to affect trade between Member States, as there is the possibility that the RCCs will get engaged in activities involving intra-Community trade.

(45) The Commission therefore considers that there is State aid at the level of the RCCs, as concerns the qualifying investments.

3.1.3. State aid to the management

(46) According to section 3.2. of the Guidelines, aid to the fund's managers or the management company will be considered to be present if their remuneration does not fully reflect the current market remuneration in comparable situations. On the other hand, there is a presumption of no aid if the managers or management company are chosen through an open and transparent public tender procedure or if they do not receive any other advantage granted by the State.

(47) The State does not interfere in the selection of the fund management and does not provide any advantages to the RCC management under the scheme. The management remuneration will be defined by the market itself and there is no indication that the remuneration would not reflect current market remuneration in comparable situations. The Commission therefore considers that there is no State aid at the level of the management of the RCCs.

3.1.4. State aid to undertakings in which investment is made

(48) According to section 3.2 of the Guidelines, in cases where the investment is made in terms which would be acceptable to a private investor in a market economy in the absence of any State intervention, the enterprises in which the investment is made will not be considered as aid recipients.

(49) The measure involves State resources as the tax relief on the income from the eligible investments is income tax revenues foregone for the Exchequer. The measure facilitates, through fiscal advantage to investors and the funds, the provision of risk capital to SMEs, which may otherwise not be available, or at least not to the same extent, in the absence of the scheme. The measure therefore confers an advantage to the investee companies. The measure is selective as only certain qualifying SMEs are eligible for investments under the scheme. Since it cannot be excluded that the target enterprises are active in intra-Community trade, an impact on competition and trade cannot be excluded either.

(50) The Commission therefore considers that there is State aid within the meaning of Article 87(1) EC Treaty at the level of undertakings in which investment is made.

3.2. Lawfulness of the aid

(51) By notifying the measure before its implementation, Slovenia respected the obligations under Article 88(3) of the EC Treaty.

4. COMPATIBILITY ASSESSMENT

4.1. Criteria for assessing the compatibility of the measure

(52) As the measure constitutes State aid at the level of the corporate investors, the RCCs and the target SMEs, the Commission has to examine whether this State aid is compatible with the common market. The Guidelines are applicable to the case at hand, since the measure concerns the provision of risk capital to SMEs.

(53) Section 4.2 of the Guidelines defines the types of risk capital measures, among which section 4.2(d) specifies fiscal incentives to investment funds and/or their managers, or to investors to undertake risk capital investment. Given that the measure provides fiscal advantage to the RCCs and their investors, the measure falls within the scope of the Guidelines.

(54) Section 2.1 of the Guidelines requires the exclusion of aid to enterprises in difficulty, and to enterprises in the shipbuilding, coal and steel industry. Furthermore, the Guidelines do not apply to aid to export-related activities, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity, as well as aid contingent upon the use of domestic in preference to imported goods.

(55) The measure complies with section 2.1 of the Guidelines. It excludes the aid to enterprises in difficulty and in the shipbuilding, coal and steel industry. The requirements for eligible investments do not include any provision that the aid would be conditioned upon export activities of the targeted SMEs or their use of domestic in preference to imported goods.

(56) The Commission will consider that the incentive effect, the necessity and proportionality of aid are present in a risk capital measure and that the overall balance is positive where all the conditions in section 4.3 of the Guidelines are met. If the risk capital measure is not complying with one point or more of the conditions set out in section 4.3 of the Guidelines, it will be subject to a more detailed assessment given the less obvious evidence of a market failure and the higher potential for crowding out of private investors and/or distortion of competition.

4.2. Maximum level of investment tranches

(57) According to section 4.3.1 of the Guidelines, the risk capital measure must provide for tranches of finance, whether wholly or partly financed through state aid, not exceeding EUR 1.5 million per target SME over each period of twelve months. As pointed out above, the RCCs will operate in accordance with the investment limit of EUR 1.5 million annually. Hence, section 4.3.1 of the Guidelines is met.

4.3. Restriction to seed, start-up and expansion financing

(58) In line with section 4.3.2 of the Guidelines, the risk capital measure must be restricted to provide financing up to the expansion stage for small enterprises, or for medium-sized enterprises located in assisted areas. As pointed out above, the measure provides seed, start-up and expansion financing, in line with the definitions of section 2.2 of the Guidelines, for SMEs located in Slovenia, which is an assisted area under Article 87(3) (a) of the EC Treaty. Therefore the measure complies with section 4.3.2 of the Guidelines.

4.4. Prevalence of equity and quasi-equity investment instruments

(59) Section 4.3.3 of the Guidelines requires that the risk capital measure must provide at least 70% of its total budget in the form of equity and quasi-equity investment instruments into target SMEs. As pointed out above, the qualifying investments under the scheme will be exclusively in the form of equity. Therefore, the condition stipulated by section 4.3.3 of the Guidelines is fulfilled.

4.5. Participation by private investors

(60) Section 4.3.4 of the Guidelines requires at least 50% of the funding of the investments made under the risk capital measure to be provided by private investors, or for at least 30% in the case of measures targeting SMEs located in assisted areas. As pointed out above, Slovenia is an assisted area and at least 30% of the capital of the RCCs shall be provided by private investors. Therefore, the measure complies with section 4.3.4 of the Guidelines.

4.6. Profit-driven character of investment decision

(61) The profit-driven criterion is considered to be met if the cumulative conditions under section 4.3.5 of the Guidelines are fulfilled.

(62) Firstly, according to section 4.3.5 (a) of the Guidelines a significant involvement of private investors as described in section 4.3.4 of the Guidelines, providing investments on a commercial basis (that is, only for profit), directly or indirectly, into the equity of the target enterprises, must be present. As pointed out above, the measure involves at least 30% of private investors who invest in the RCCs on a commercial basis. To benefit from tax relief, investments must be profit-driven only. Therefore the requirement laid down in section 4.3.5 (a) of the Guidelines is met.

(63) Secondly, pursuant to section 4.3.5 (b) of the Guidelines, a detailed business plan for each investment, establishing a project’s ex-ante viability, must exist. Finally, as set out in section 4.3.5 (c) of the Guidelines, a clear and realistic exit strategy must exist for each investment. Given that there is an explicit legal requirement that the RCCs must invest, manage and dispose investments under the scheme for the exclusive purpose of acquiring profits, investors are expected to operate according to market principles and take investment decisions on the basis of a business plan and profitable exit prospects. Therefore, the condition of section 4.3.5 (b) and (c) are fulfilled.

(64) The Commission therefore concludes that the measure is in line with section 4.3.5 of the Guidelines and investment decisions are profit-driven.

4.7. Commercial management

(65) The commercial management criterion is considered to be present where all the following conditions of section 4.3.6 of the Guidelines are fulfilled, ensuring that the management of the measure is effected on a commercial basis.

(66) Firstly, according to section 4.3.6 (a) of the Guidelines, there should be an agreement between the Fund management and the Fund’s participants, providing that the manager's remuneration is linked to performance and setting out the objectives of the fund and proposed timing of investments.

(67) Under the legal basis of the scheme, the RCCs are required to have the management agreement specifying the rights and obligations of the fund management. As pointed out above, there is a legal requirement to manage the RCCs on a commercial basis. The management agreement therefore will define all the necessary conditions, including the objectives and the timing of the investments and performance-related management remuneration to ensure the funds are managed on a commercial basis. Hence, the conditions laid down in section 4.3.6(a) of the Guidelines are met.

(68) Pursuant to section 4.3.6 (b) of the Guidelines, private market investors must be represented in decision-making of the RCCs, such as through an investors' or advisory committee. As indicated above, there will be an investors' or advisory committee where private market investors are represented in decision-making, insofar as their interests are represented in a given RCC. Therefore the requirement laid down in section 4.3.6 (b) of the Guidelines is met.

(69) Thirdly, section 4.3.6 (c) of the Guidelines stipulates that best practices and regulatory supervision apply to the fund. Given that the RCCs will be managed on a commercial basis, with an objective to realise profits, it would be in the interest of the commercial management to apply the best industry practice.

(70) While the management of the RCCs is not subject to regulatory supervision in Slovenia, the Commission notes that the tax authority will be responsible for ensuring that the RCCs comply with the provisions of the scheme. In addition, if there are any breaches of the company law in relation to the investment of the RCCs, the law will be legally enforced. Hence, the conditions laid down in section 4.3.6(c) of the Guidelines are met.

(71) The Commission concludes that the measure fulfils all the conditions laid down in section 4.3.6 of the Guidelines and therefore the RCCs are considered to be managed on a commercial basis.

4.8. Sectoral focus

(72) According to section 4.3.7 of the Guidelines, the Commission may accept a sectoral focus for risk capital measures. This provision is not applicable as investments under the measure are not targeted to any particular sector.

4.9. Cumulation

(73) According to section 6 of the Guidelines, where capital provided to a target enterprise under these measures is used to finance initial investment or other costs eligible for aid under the block exemption regulations, guidelines, frameworks, or other State aid documents, the relevant aid ceilings or maximum eligible amounts will be reduced by 50% in general and by 20% for target enterprises located in assisted areas during the first three years of the first risk capital investment and up to the total amount received. This reduction does not apply to aid intensities provided for in the Community framework for State aid for Research and Development[14] or any successor framework or block exemption regulation in this field.

(74) The Slovenian authorities confirmed that they would apply the above cumulation rules. Therefore, the measure complies with Chapter 6 of the Guidelines.

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14 OJ C 323, 30.12.2006, p. 1-25.

4.10. Reporting and monitoring

(75) Chapter 7 of the Guidelines stipulates conditions for the provision of annual reports on risk capital measures and for publication and recording obligations of the Member States. The Slovenian authorities undertook to comply with the reporting and monitoring provisions of section 7 of the Guidelines.

4.11. Conclusion

(76) The Commission concludes that the measure fulfils the conditions as set out in the Community Guidelines on State aid to promote risk capital investment in small and medium-sized enterprises. It has therefore found the measure to be compatible with the common market pursuant to Article 87(3)(c) of the EC Treaty.

5. DECISION

(77) On the basis of the foregoing assessment, the Commission concludes that the measure "Risk capital measure in Slovenia" is compatible with the common market pursuant to Article 87(3) (c) EC Treaty. It has decided not to raise objections.

(78) The Commission reminds the Slovenian Government that, in accordance with Article 88 (3) of the EC Treaty, all plans to refinance, alter or change this aid schemes have to be notified to the Commission.

(79) The Commission further reminds the Slovenian Government to provide an annual report on the implementation of the measure.

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/community_law/state_aids/index.htm

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

European Commission
Directorate-General for Competition
Directorate for State Aid
State Aid Registry
B-1049 Brussels
Fax No: +32 2 296 12 42

Yours faithfully,

For the Commission

Neelie KROES
Member of the Commission