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Subject: SA. 37314 (2013/N) – Slovenia
Rescue aid in favour of Probanka d. d.

Sir,

1 PROCEDURE

(1) On 5 September 2013, Slovenia notified to the Commission its intention to provide Probanka d.d. ("the Bank") with a State guarantee on newly issued debt with the objective of stabilising the liability side of the Bank's balance sheet.

(2) Slovenia exceptionally accepts that the decision be adopted in the English language.

2 DESCRIPTION OF THE MEASURE

2.1 The beneficiary

(3) The Bank is an universal bank incorporated and domiciled in the Republic of Slovenia, and it holds total assets of around EUR 973 million (approximately 2.2% of the assets of the national banking system). The Bank provides universal banking services (collecting deposits, issuing loans and guarantees, investment banking services, payment system services, fund management services) to customers mainly in Slovenia (94.7% of exposure). The Bank's market share in Slovenia is 2.2%.

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(4) The Bank’s ordinary shares (representing 90.4% of the share capital) are not listed on a regulated market of securities, while its preference shares (representing 9.6% of the share capital) are listed in the standard market of the Ljubljana Stock Exchange. Certain series of bank’s bonds are listed on the bond market of the Ljubljana Stock Exchange. The main shareholders of the Bank are Medaljon d.d. (15.9%), Perutnina Ptuj d.d. (10.7%) Avtotehna d.d. (7.8%) and Trimo d.d. (6.2%).

(5) The Bank's main figures are:

Probanka d.d.	31 July 2013
Total assets (EUR million)	973
Loans to customers (gross) (EUR million)	927
Retail deposits (EUR million)	240
Total wholesale funds (EUR million)	487
Employees	229
Number of branches	20

2.2 The events triggering the measure

(6) During the month of August 2013 the Bank faced increased outflow of deposits, from EUR 587.8 million of liabilities to non-banking sector on 31 July 2013 to EUR 567.1 million on 30 August 2013 (over the month the Bank lost over 3% of its deposit base). The adequacy of its liquidity reserves is substantially impaired and reaches levels at below 5% of total assets. The Bank is subject to close daily monitoring of its liquidity position.

(7) The Bank of Slovenia has required the Bank to increase its capital buffers. The deadline for the increase in the capital and the capital adequacy is 30 September 2013. According to the interim reports and available data there is a high probability that the Bank will not be able to fulfil the regulatory capital requirements. The Bank is solvent with 4.84 % of Core Tier 1 capital ratio and 8.42 % of solvency ratio (both ratios on 31 July 2013). In the medium term its capital adequacy is expected to fall further due to extensive impairments of financial assets requested by the Bank of Slovenia and weak profitability.

2.3 The Measure

(8) As a consequence of the deterioration of the Bank’s situation and with the objective of stabilising the liability side of the Bank’s balance sheet whilst proceeding to its orderly winding down Slovenia agreed to grant the Bank a liquidity facility. In that context, the Republic of Slovenia will grant a State guarantee on newly issued debt (hereinafter "the Measure") in line with the Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of

the financial crisis (hereinafter "the 2013 Banking Communication").[1] The maximum amount of the guarantees to be provided is EUR 490 million which represents 50% of the total assets of the Bank. The estimated duration of the liquidity facility is one year with a maximum duration of three years.

3 POSITION OF THE SLOVENIAN AUTHORITIES

(9) The Slovenian authorities accept that the Measure constitutes State aid and request the Commission to verify if it is compatible with the internal market on the basis of Article 107(3)(b) of the Treaty on the Functioning of the European Union ("the TFEU"), as it is necessary in order to remedy a serious disturbance in the Slovenian economy.

(10) By its letter of 6 September 2013 the Bank of Slovenia stated that the situation of the Bank threatened financial stability and that an urgent intervention was therefore necessary to avoid a serious disturbance in the economy of Slovenia.

(11) In addition, the Slovenian authorities submit that the Measure is (i) appropriate and well-targeted; (ii) necessary and limited to the minimum amount necessary; and (iii) proportionate as designed to minimize negative spill-over effects on competitors.

(12) Slovenia commits that the Bank will suspend dividend and coupon payments on outstanding hybrid instruments unless those payments stem from a legal obligation, will not exercise a call option on the same instruments and will not carry out any other capital management deals (e.g. buy-back) on hybrid instruments or any other equity-like instruments without prior authorisation of the Commission. Furthermore, Slovenia commits that the Bank will respect an acquisition ban. Slovenia will ensure that the liquidity facility will not compromise the full burden-sharing of the shareholders and subordinated debt holders of the Bank.

(13) The Slovenian authorities submitted further commitments which comply with the 2013 Banking Communication. In particular in order to align the Measure with the requirements of Section 4 ("Guarantees and liquidity support outside the provision of central bank liquidity") of the 2013 Banking Communication the Slovenian authorities submitted the following commitments:

(i) The guarantees will only be granted for newly issued debt instruments with maturities of no more than three years.

(ii) The minimum remuneration level of the State guarantees will be in line with the formula set out in the 2011 Prolongation Communication.

(iii) A liquidation plan will be submitted to the Commission within two months of the date of the decision.

(iv) The Bank will refrain from advertising referring to State support and from employing any aggressive commercial strategies which would not take place without the support of the Member State.

[1] OJ C216, 30.7.2013, p. 1.

4 ASSESSMENT

4.1 Existence of State Aid

Aid to the Bank

(14) The Commission first has to assess whether the Measure constitutes State aid within the meaning of Article 107(1) TFEU. According to that provision, State aid is any aid granted by a Member State or through State resources in any form whatsoever which distorts, or threatens to distort, competition by favoring certain undertakings, in so far as it affects trade between Member States. The Commission in that context observes that the Slovenian authorities do not dispute that the Measure constitutes State aid.

(15) The Commission observes that the Measure is granted by Republic of Slovenia and is directly financed through State resources.

(16) The Measure confers an advantage on the beneficiary of the aid, the Bank. In particular, the measures allows the Bank stabilize the liability side of its balance sheet. In the circumstances in which the Bank finds itself, no private operator acting on the basis of market logic would give liquidity support to the Bank. Moreover, the pricing formula applicable to the guarantees fall below the levels which the Bank could expect to pay even if it was able to identify a potential private guarantor. Since the Measure is available only to the Bank, the Measure confers a selective advantage on it.

(17) The Commission finds that the Measure distorts competition as it allows the Bank to obtain liquidity necessary to avoid insolvency.

(18) The Commission finds that the Measure is also likely to affect trade between Member States as the Bank competes on the Slovenian market, where some of the Bank's competitors are subsidiaries and branches of foreign banks.

Conclusion on the aid to the Bank

(19) On the basis of the forgoing, the Commission considers that the Measure fulfils all the conditions laid down in Article 107(1) TFEU and that the Measure qualifies as State aid to the Bank.

4.2 Compatibility of the aid

(20) As regards compatibility with the internal market of the Measure provided to the Bank, the Commission must first determine whether the aid can be assessed under Article 107(3)(b) TFEU, i.e. whether the aid remedies a serious disturbance in the economy of Slovenia. Subsequently, the Commission, applying that legal basis, has to assess whether the notified aid measure is compatible with the internal market.

4.2.1 Legal basis for the compatibility assessment

(21) Article 107(3)(b) TFEU enables the Commission to find aid compatible with the internal market if it is "to remedy a serious disturbance in the economy of a Member State." The Commission has acknowledged that the global financial crisis may create a serious disturbance in the economy of a Member State which can be addressed through State measures supporting financial institutions. This has been successively detailed and developed in the six Crisis Communications[2] as well as in the 2013 Banking Communication.

(22) The Commission observes that market conditions have remained difficult globally since the end of 2008. The Commission notes that Slovenia, in particular, is being severely hit by the financial, economic and sovereign crisis. The economic downturn combined with the fall in property prices and the exposure of the Slovenian banks to problematic sectors, have led to a significant increase of the level of non-performing loans.

(23) Without the proposed Measure, the Bank would not have had enough liquidity to proceed with an orderly winding down with potential severe adverse impacts on other banks and the wider financial system in Slovenia. The assessment of the Slovenian authorities is that the Bank's financial distress would destabilise the Slovenian financial markets and trigger a general crisis of confidence at the present delicate juncture.

(24) By letter of 6 September 2013 the Bank of Slovenia states that the situation of the Bank threatened financial stability and that the State intervention was therefore necessary to avoid a serious disturbance in the economy.

(25) In view of the above the Commission considers that the Measure has to be examined under Article 107(3)(b) TFEU.

4.2.2 Compatibility assessment

(26) The Commission will assess whether the Measure complies with the general criteria of *appropriateness, necessity* and *proportionality* for compatibility under Article 107(3)(b) TFEU.

[2] Communication on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis (*"2008 Banking Communication"*), OJ C 270, 25.10.2008, p. 8; Communication on the recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition (*"Recapitalisation Communication"*), OJ C 10, 15.1.2009, p. 2; Communication from the Commission on the treatment of impaired assets in the Community financial sector (*"Impaired Assets Communication"*), OJ C 72, 26.3.2009, p. 1; 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 (*"Restructuring Communication*"), OJ C 195, 19.8.2009, p. 9; Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of financial institutions in the context of the financial crisis ("*2010 Prolongation Communication"*), OJ C 329, 7.12.2010, p. 7 and Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of financial institutions in the context of the financial crisis ("*2011 Prolongation Communication*), OJ C 356, 6.12.2011, p. 7.

a. Appropriateness of the Measure

(27) The Measure should be appropriate to remedy a serious disturbance in the Slovenian economy. The Measure aims at improving the Bank's liquidity position, taking into account possible further deposit withdrawals in the near future.

(28) The Slovenian authorities commit in line with requirements (a) and (b) of point 59 of the 2013 Banking Communication that guarantees will only be granted on newly issued debt instruments with maturities of no more than three years.

(29) The Measure is appropriate because it effectively meets its objective to ensure that the Bank can meet its liquidity and immediate funding needs. The Measure also effectively achieves the objective of preventing the disorderly winding down of the Bank, which will reassure the markets and improve confidence in the Slovenian financial system. The Measure thus is appropriate to remedy a serious disturbance in the economy.

b. Necessity – limitation of the aid to the minimum

(30) The aid measure must, in its amount and form, be necessary to achieve its objective. That requirement implies that the liquidity facility must be of the minimum amount necessary to reach its respective objectives. In that context, the Commission observes that the amount of the Measure will ensure that the Bank can compensate for the projected liquidity outflows and will be able to fund its existing activities.

(31) As regards the remuneration of the Measure, the Slovenian authorities informed the Commission that it will be aligned with requirement (c) of point 59 of the 2013 Banking Communication, i.e. with the formula set in the 2011 Prolongation communication.

c. Proportionality – measures limiting negative spill-over effects

(32) The Measure is in line with requirements (d) to (f) of point 59 of the 2013 Banking Communication. The Slovenian authorities provided the following commitments:

(i) A liquidation plan will be submitted to the Commission within two months of the date of this Decision.

(ii) The Bank will refrain from advertising referring to State support and from employing any aggressive commercial strategies which would not take place without the support of the Member State.

(33) In addition Slovenia commits that the Bank will suspend dividend and coupon payments on outstanding hybrid instruments unless those payments stem from a legal obligation, will not exercise a call option on the same instruments and will not carry out any other capital management deals (e.g. buy-back) on hybrid instruments or any other equity-like instruments without prior authorisation by the Commission. Slovenia also commits to an acquisition ban.

(34) Therefore, taking into consideration the liquidity needs (up to EUR 490 million) of the Bank combined with the need to maintain financial stability in Slovenia, the Commission

considers that the Measure minimises the distortions of competition caused by the aid during the rescue period.

CONCLUSION

- The Measure notified by the Republic of Slovenia to the benefit of the Bank in form of guarantees on newly issued liabilities of up to EUR 490 million constitutes State aid pursuant to Article 107(1) TFEU.

- The Measure is temporarily compatible with the internal market for reasons of financial stability on the basis of Article 107(3)(b) TFEU in light of the 2013 Banking Communication.
- The Measure is accordingly approved for two months or, if Slovenia submits a liquidation plan within two months from the date of this decision, until the Commission will adopt a final decision on the liquidation plan.
- The Commission notes that Slovenia exceptionally accepts that the adoption of the Decision be in the English language.

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http://ec.europa.eu/competition/elojade/isef/index.cfm

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

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Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President