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**Subject: State aid n° SA.37417 (2013/N) – Portugal
Amendment of the Portuguese Guarantee Scheme on EIB lending**

Sir,

1 PROCEDURE

- (1) The Commission approved the Portuguese Guarantee Scheme ("**PGS**") on EIB lending by decision of 27 June 2013 ("**the June 2013 Decision**")¹.
- (2) On 27 September 2013, Portugal asked the Commission to modify the June 2013 Decision in order to alter the commitments assumed by the Portuguese authorities in light of the new guidelines contained in 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 (the '**2013 Banking Communication**')².
- (3) Portugal exceptionally accepts that the present decision be adopted in the English language.

¹ SA. 36180 (2013/N), OJ C 220, 01.08.2013, p. 3.

² OJ C 216, 30.7.2013, p. 1.

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2 FACTS

2.1 The June 2013 Decision

- (4) The PGS allows Portugal to issue guarantees, subject to certain conditions, in favour of the guarantors for funding granted by the EIB to final borrowers, either directly or indirectly through banks.
- (5) Recital 43 of the June 2013 Decision noted that guarantees issued under the PGS were to be cumulated with those issued under other guarantee schemes for banks in Portugal.
- (6) Moreover, Portugal committed that as of the entry into force of what would become the 2013 Banking Communication, when the cumulative liquidity support (including State guarantees) to any bank exceeded both the total amount of EUR 500 million and a ratio of 5% of a bank's total liabilities, participating banks exceeding those thresholds would be required to present a restructuring plan within two months of granting of the new guarantees.

2.2 The 2013 Banking Communication

- (7) Point 61 of the 2013 Banking Communication which has been applied by the Commission since 1 August 2013 states that *"In exceptional cases guarantees may also be approved covering exposures of the European Investment Bank towards banks for the purpose of restoring lending to the real economy in countries with severely distressed borrowing conditions compared to the Union average. In assessing such measures the Commission will examine in particular whether they do not confer an undue benefit that could for example serve to develop other business activities of those banks. Such guarantees may only cover a period of up to seven years. If approved by the Commission, such guarantees do not trigger an obligation for the bank to present a restructuring plan."*

3 POSITION OF THE PORTUGUESE AUTHORITIES

- (8) Given that the 2013 Banking Communication was published after the June 2013 Decision was adopted, Portuguese authorities seek an amendment of the June 2013 Decision in order to align the commitments assumed by them with the principles established in the 2013 Banking Communication.

4 ASSESSMENT

- (9) The Commission adopted a decision on 27 June 2013 in which it assessed the aid to be granted to banks in the context of the PGS according to the then existing practice and guidelines.
- (10) The Commission in its 2013 Banking Communication has changed how it evaluates the compatibility of aid granted to individual financial institutions when there is a State guarantee given for the EIB to provide lending to the real economy. Pursuant to point 61 of the 2013 Banking Communication which the Commission has applied since 1 August 2013, individual financial institutions are not required to present a restructuring plan where, by reason of the fact that they benefit from State guarantees given to cover EIB loans, they exceed the thresholds established for general usage of State guarantees which trigger an obligation to present a restructuring plan.
- (11) Member States are free to notify modifications to State aid measures at any time to the Commission and the Commission is required to assess such proposed amendments in light of the guidance which it has laid down as to how it will exercise its discretion under Article 107(3) of the Treaty on the Functioning of the European Union which is applicable when it decides on the notified modification. Since 1 August 2013, the Commission has considered that State guarantees which facilitate EIB funding to the real economy do not trigger an obligation for the beneficiary bank to present a restructuring plan. Conditions in Portugal are such that point 61 of the 2013 Banking Communication is applicable to the notified amendment. As such, the Commission does not consider that the amended commitment submitted by the Portuguese authorities gives rise to serious doubts as to the compatibility of the resulting version of the PGS with the internal market and does not raise objections to it.
- (12) The Commission concludes that the June 2013 Decision should be accordingly amended in light of the modified commitment pursuant to which State guarantees granted under the PGS do not trigger the obligation of the beneficiary bank to submit a restructuring plan.

5 CONCLUSION

- The Commission has accordingly decided:
 - to amend the June 2013 Decision in light of the modified commitment pursuant to which State guarantees granted under the PGS do not trigger the obligation of the beneficiary bank to submit a restructuring plan.
- The Commission notes that Portugal exceptionally accepts that the adoption of the present Decision be in the English language

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Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President