EUROPEAN COMMISSION

Brussels, 29.7.2016
C(2016) 4904 final

In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]		PUBLIC VERSION This document is made available for information purposes only.

Subject: State Aid SA.45125 (2016/N) – Greece
Methodology to calculate the aid element in State guarantees to companies

Sir,

1. PROCEDURE

(1) On September 2014, the Greek authorities, in cooperation with experts from the banking sector, submitted to the Commission a note describing the methodology for the calculation of the commission fee for guarantees to large corporates.

(2) After several exchanges by e-mails and by conference calls between the Greek authorities and the services of the Commission over the period September 2014 to May 2016, the Greek authorities notified on 23 May 2016 the methodology to calculate the fee and the aid element for State guarantees to large corporates.

2. DESCRIPTION OF THE METHODOLOGY

2.1. Scope of the methodology

(3) The methodololgy notified by Greek authorities aims at calculating the guarantee fee to ensure the absence of aid in State guarantees granted to large corporates in

Κύριος Νικος ΚΟΤΖΙΑΣ
Υπουργός Εξωτερικών
Βασιλίσσης Σοφίας 5
Grèce - 10671 Αθήνα

accordance with the Commission Notice on the application of Article 87 and 88 of the EC Treaty to State aid in the form of guarantees[1] ("Guarantee Notice"). If the specific conditions listed under point 3.2 of the Guarantee Notice for individual guarantees and under point 3.4 of the Guarantee Notice for guarantee schemes are fulfilled, the Commission considers the individual guarantee or guarantee scheme to be free of aid.

(4) The methodology notified by Greek authorities also allows to calculate the Gross Grant Equivalent ("GGE") for State guarantees granted to large corporates at non-commercial fees, in accordance with section 4 of the Guarantee Notice.

2.2. Beneficiaries

(5) The State guarantees can only be provided in favour of large public and private companies and cooperatives (more than 250 employees and sales beyond EUR 50 million or total assets in excess of EUR 43 million).

(6) The methodology will not be used in case of State guarantees granted in favour of banks and credit institutions. Moreover, State guarantees will also not be granted in favour of companies listed on the stock market or on multilateral trading facilities (MTF), except for guarantees granted to cover loans from European public financial organizations[2] for investment purposes or guarantees granted to entrerprises in order to ensure the provision of services of public interest.

2.3. Calculation of a market-conform guarantee fee

(7) The Greek authorities have developed a methodology to calculate a market-conform guarantee fee. The determination of the fee will mainly depend on two key factors, the probability of default of the borrower and the coverage ratio or collateral of the loan facility. The probability of default of the borrower will be assessed according to the credit risk rating methodology of a Greek Rating Agent, […].

(8) According to its website, […] ("[…]") is the only company in Greece recognized as a Credit Rating Agency by the European Securities and Markets Authority. Furthermore, it had been recognized by the National Bank of Greece as an External Credit Assessment Institution under the regulations of Basel II and the EU. […] meets the requirements of Regulation 1060/2009 on credit rating agencies[3].

(9) The assessment of the creditworthiness of any borrower is reflected in a six-grade score scale which is based on the ten-grade score scale system (risk categories A1, A2, B1, B2, C1, C2, D1, D2, E1 and E2) developed by […], serving as a Rating Tool. According to […]'s credit score system A1 grade represents the minimum probability of default whereas E2 represents the highest probability of default.

---

1 OJ C 155, 20.6.2008, p.10.

2 By European public financial organizations, reference is made to public international institutions like the European Investment Bank, the European Bank for Reconstruction and Development or the European Investment Fund, which provide financing for projects fulfilling specific criteria.

3 Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies. OJ L 302, 17.11.2009, p. 1.

(10) For the purposes of the proposed methodology with a six-grade score scale, the best rating categories in […]'s classification system, namely the categories from A1 to C1, have been grouped into one representing the category with the minimum probability of default (the best rating category). The other categories remain C2, D1, D2, E1 and E2.

(11) The ten-grade score scale of […] is mapped to the average default rate of each rating class of Moody's, S&P and Fitch Scales according to their recent studies on corporate default rates.[4,5,6]

(12) The table below shows the correspondence between the risk classification of […] and the rating classes of Standard & Poor's, Fitch and Moody's, which are the rating agencies most frequently used.

Rating Agency					Average Default Rates per Rating Class			
ICAP		S&P	Fitch	Moody's	S&P (1981-2013)	Fitch (1990-2013)	Moody's (1983-2013)	**AVERAGE D.R.**
A1	0% - 0,05%	AAA	AAA	Aaa	0,000%	0,000%	0,000%	**0,000%**
		AA+	AA+	Aa1	0,000%	0,000%	0,000%	**0,000%**
		AA	AA	Aa2	0,020%	0,000%	0,000%	**0,020%**
		AA-	AA-	Aa3	0,030%	0,060%	0,049%	**0,046%**
A2	0,05% - 0,13%	A+	A+	A1	0,060%	0,000%	0,079%	**0,070%**
		A	A	A2	0,070%	0,060%	0,066%	**0,065%**
		A-	A-	A3	0,080%	0,170%	0,058%	**0,103%**
B1	0,13% - 0,27%	BBB+	BBB+	Baa1	0,140%	0,140%	0,148%	**0,143%**
		BBB	BBB	Baa2	0,200%	0,100%	0,166%	**0,155%**
		BBB-	BBB-	Baa3	0,320%	0,420%	0,253%	**0,331%**
B2	0,27% - 0,56%	BB+	BB+	Ba1	0,430%	1,010%	0,644%	**0,695%**
C1	0,56% - 1,1%	BB	BB	Ba2	0,680%	0,870%	0,720%	**0,757%**
		BB-	BB-	Ba3	1,130%	1,770%	1,623%	**1,508%**
C2	1,1% - 2,2%	B+	B+	B1	2,310%	1,120%	2,184%	**1,871%**
D1	2,2% - 4,5%	B	B	B2	4,730%	2,520%	3,352%	**3,534%**
		B-	B-	B3	7,920%	2,940%	5,728%	**5,529%**
D2	4,5% - 12%	CCC+	CCC+	Caa1	26,870%	26,640%	7,306%	**7,306%**
		CCC	CCC	Caa2	26,870%	26,640%	16,748%	**16,748%**
E1	12% - 25%	CCC-	CCC-	Caa3	26,870%	26,640%	26,842%	**26,842%**
E2	> 25%	CC	CC					**>28,842%**
			C					

(13) For collaterals, three coverage ratio bands have been defined:

(a) Uncovered,

4 Moody's Annual Default Study: Corporate Default and Recovery Rates, 1920-2013 - Exhibit 29. Average One-Year Alphanumeric Rating Migration Rates, 1983-2013.

5 Fitch Ratings Global Corporate Finance 2013 Transition and Default Study - Fitch Global Corporate Finance Transition Rates: 1990–2013, p. 21.

6 S&P 2013 Annual Global Corporate Default Study And Rating Transitions-Table 23. Average One-Year Transition Rates For Global Corporates By Rating Modifier (1981-2013).

(b) Coverage up to 30%, and

(c) Coverage of 30% and above.

(14) The Greek authorities will accept collaterals in the form of first ranked liens on real estate. However, the Greek authorities will also accept liens on real estate other than first ranked, if there is sufficient discounted net foreclosure value on the collateral.

(15) The collateral valuation and assessments applied under this methodology will be the same as the one applied by the credit institutions in similar loans, irrespective of whether these loans are covered or not with State guarantees. The authorised experts of the credit institutions will certify the existence of sufficient discounted net foreclosure value. The collaterals on real estate shall be valued by the authorised engineers of the credit institutions, who will be asked to assess the net foreclosure value of the collateral at the time when the guarantee is granted.

(16) According to the Greek Code of Civil Procedure ("CCP"), the starting price offered in real estate auctions amounts to 2/3 of the estimated value of the collateral and cannot be lower than its commercial value. The net foreclosure value assessed by the engineers usually amounts to approximately 2/3 of the estimated commercial value of the collateral and reflects the current situation in the real estate market, taking into account the average confiscation and auction costs, according to the credit institution practice.

(17) According to the Greek CCP, in case of liquidation of the collaterals which cover the guaranteed loan, the first rank collateralised creditor (in this case the State) will, in principle, be satisfied by priority as far as 2/3 of the proceeds are concerned. The other portion (1/3 of the proceeds) is allocated first to the tax authorities for claims deriving from VAT or other withholding or attributable taxes (i.e. tax for payroll taxes) and to social security's entities. The rest of the State claims (including claims deriving from guarantee calls) follow.

(18) The notified methodology to calculate guarantee fees was developed taking into account that, in the vast majority of the loans with a State guarantee, the State, and not the banks, is obliged due to contractual clauses to seize the collateral and has contractually committed to indemnify the guaranteed bank at the time of default (and not later after the sale of the collateral). Indeed, during the last years, banks have asked from the guarantor (the State) to accept the above contractual clauses, in order for them to finance Greek companies. In very few cases in the past, contractual clauses mentioned that the banks were obliged to seize the collaterals and were indemnified on the basis of the loss net of proceeds from the collateral. However these specific cases were not considered when developing the proposed methodology and calculating the below fee grid.

(19) The combination of the probability of default of each borrower (1-year probability of default) and the value of the collateral, leads to the determination of the commission fee charged by the Greek State. The ratings shall be obtained, as explained above, from the rating agency […], whereas the valuation of the collaterals shall be provided by the engineers of the credit institutions granting the loans. The commission fees determined in this way are expressed as yearly premiums.

(20) The commission fees provided in the table below include the following elements:

(a) 15 bps to cover the administrative cost, which includes all costs related to control and risk management, as well as the management of securities, and

(b) 32 bps for the yearly remuneration of the capital, in line with section 3.4 of the Guarantee Notice.

			Uncovered	Coverage ratio Up to 30%	Coverage ratio of 30% and above
[…] **Score**	**Default rate ranges**	*Mid Point Probability of Default*	Commission fee	Commission fee	Commission fee
A1 - C1	0,0% - 1,1%	*0,6%*	1,07%	0,99%	0,81%
C2	1,1% - 2,2%	*1,65%*	1,87%	1,67%	1,21%
D1	2,2% - 4,5%	*3,35%*	3,57%	3,12%	2,06%
D2	4,5% - 12%	*8,25%*	8,32%	7,15%	4,43%
E1	12% - 25%	*18,50%*	14,07%	12,04%	7,31%

(21) Companies with an […] score E2 will not be eligible for State guarantees.

(22) The Greek authorities will verify the self-financing nature of the methodology by reviewing the adequacy of the premiums at least once a year. This means that, for the assessment of the self-financing nature of the scheme, actual losses after recovery will be compared to the received premiums net of the administration and capital costs. Based on the actual loss rate of the methodology, the premiums will be adapted accordingly.

(23) The proposed methodology will be applied by the Greek authorities for a limited period of time (4 years). After 4 years, the Greek authorities confirm that they will reassess the methodology and, if necessary, they will make the appropriate amendments in order to improve the methodology based on the experience gathered by then.

2.4. Aid free guarantee schemes / individual guarantees

(24) If the methodology for the calculation of the guarantee fee is used in aid free guarantee schemes / individual guarantees, the Greek authorities commit that the following conditions, which rule out the presence of State aid, will be fulfilled:

(25) As far as individual guarantees are concerned:

(a) Enterprises in financial difficulty are excluded;

(b) the guarantees will be granted for a fixed maximum amount and will be limited in time;

(c) the guarantees will not cover more than 80 % of each outstanding loan or other financial obligation;

(d) as explained under section 2.3, a market-oriented price is paid for the guarantee.

(26) As far as guarantee schemes are concerned:

(a) Enterprises in financial difficulty are excluded;

(b) the guarantees will be granted for a fixed maximum amount and will be limited in time;

(c) the guarantees will not cover more than 80 % of each outstanding loan or other financial obligation;

(d) as explained under section 2.3, the terms of the scheme are based on a realistic assessment of the risk so that the premiums paid by the beneficiaries make it, in all probability, self-financing. The guarantee premiums charged under the scheme are in line with market prices and reflect the actual credit risk of the borrower;

(e) in order to have a proper and progressive evaluation of the self-financing aspect of the scheme, the adequacy of the level of the premiums will be reviewed at least once a year on the basis of the effective loss rate of the scheme over an economically reasonable time horizon, and premiums adjusted accordingly if there is a risk that the scheme may no longer be self-financing;

(f) as explained above under recital (20) the premiums will cover the credit risks associated with granting the guarantee, the administrative costs of the scheme and the yearly remuneration of an adequate capital,

(g) to ensure transparency, the scheme will provide for the terms on which future guarantees will be granted, such as eligible companies in terms of rating, and when applicable, sector and size, maximum amount and duration of the guarantees.

2.5. Guarantee schemes / individual guarantees with an aid element

(27) In case of guarantee schemes/individual guarantees with an aid element, the Greek authorities ensure that the following conditions will be fulfilled:

(a) the borrower will not be in financial difficulty. Undertakings in financial difficulty will be excluded from the guarantee schemes.;

(b) it will be possible to properly measure the extent of each guarantee when it is granted. This means that the guarantees will be linked to a specific financial transaction, i.e. will be granted for a fixed maximum amount and will be limited in time;

(c) the guarantee will not, in principle, cover more than 80 % of each outstanding loan or other financial obligation.

(d) the specific characteristics of the guarantee and the loan (or other financial will be taken into account when determining the market premium of the guarantee, from which the aid element is calculated by comparing it with the premium actually paid.

(e) In case of a guarantee duration of less than one year, the gross grant equivalent (GGE) of the guarantees provided by schemes applying the notified methodology is:

$$GGE = D * Z * [F - G]$$

where

D = amount of outstanding loan covered by the guarantee;

Z = percentage of outstanding loan D covered by the guarantee;

F = theoretical market premium defined according to the fee grid (see recital (20));

G = premium actually paid by the beneficiary to the State for admission to the guarantee scheme (in percentage terms).

(f) In case of a guarantee duration exceeding 12 months, the differences between the theoretical market premium and the premium actually paid at the end of each period are discounted to their present value using the reference rate as provided in the Reference Rate Communication[7]. In this case, the gross grant equivalent is:

$$GGE = \Sigma D_t * Z *(F_t - G_t)(1+i)^{-t}$$

where:

i = reference rate as provided by the Reference Rate Communication,

F_t = theoretical yearly market premium of the guarantee for the year t, determined according to the grid in recital (20),

D_t = the outstanding debt at year t of the guaranteed loan,

G_t = yearly premium actually paid by the beneficiary for admission to the guarantee scheme at year t.

(g) Finally, if the duration of a guarantee exceeds 12 months, but the actual premium required for the guarantee is paid by the applicant as a one-off sum at the time the guarantee is granted, then the formula to be applied for determining the GGE shall be:

$$GGE = [\Sigma D_t * Z * F_t * (1 + i)^{-t}] - P_u$$

where:

P_u = (D*Z*G) = one-off premium paid at the time the guarantee is granted.

[7] Communication from the Commission on the revision of the method for setting the reference and discount rates. OJ C 14, 19.1.2008, p. 6.

3. ASSESSMENT

(28) The notification concerns a methodology to be used by Greece to establish market conform prices for guarantees for large corporates. The fees calculated by the methodology will be used as well for aid free individual guarantees / guarantee schemes and for the determination of the aid element in guarantee schemes / individual guarantees.

(29) For individual guarantees to be State aid free, the Guarantee Notice (section 3.2) requires the following conditions to be fulfilled:

(a) The borrower is not in financial difficulty;

(b) the guarantees must be linked to a specific financial transaction, for a fixed maximum amount and limited in time;

(c) the guarantees do not cover more than 80 % of each outstanding loan or other financial obligation;

– When the size of the loan or of the financial obligation decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount has to decrease proportionally, in such a way that at each moment in time the guarantee does not cover more than 80% of the outstanding of the loan or financial obligation,

– Losses have to be sustained proportionally and in the same way by the lender and the guarantor. In the same manner, net recoveries generated from the recuperation of the debt from the securities given by the borrower have to reduce proportionally the losses borne by the lender and the guarantor. First-loss guarantees, where losses are first attributed to the guarantor and only then to the lender, will be regarded as possibly involving aid.

(d) a market-oriented price is paid for the guarantee.

(30) The Commission considers that the relevant conditions listed under point 3.2. of the Guarantee Notice are fulfilled, as described under recital (25).

(31) More specifically, for the market-oriented price to be paid for the guarantee, the Commission positively notes that (i) the characteristics of the guarantee and of the underlying loan (amount and duration of the transaction, probability of the default of the borrower, collateral and its impact on the recovery rate) will be taken into consideration for the calculation of the risk rating, (ii) the risk rating for each borrower will be provided by an internationally recognized rating agency, […], (iii) the default rate will be linked to the risk rating calculated by […] and to average default rates observed by the international rating agencies Moody's, S&P and Fitch (see recital (9) to (12)), (iv) the collateral net foreclosure value will be calculated by the banks engineers, using the same approach as used by the banks when granting new loans for their own account and on own risks and (v) the fee includes the remuneration of the administrative costs and of a virtual capital (similar to the requirement 3.4. of the Guarantee Notice).

(32) For guarantee schemes to be State aid free, the Guarantee Notice (section 3.4) requires the following conditions to be fulfilled:

(a) The scheme is closed to borrowers in financial difficulty;

(b) The extent of the guarantees can be properly measured when they are granted, i.e. the guarantees must be linked to specific financial transactions, for a fixed amount and limited in time;

(c) The guarantees do not cover more than 80% of each outstanding loan or other financial obligation;

(d) The terms of the scheme are based on a realistic assessment of the risk so that the premiums paid by the beneficiaries make it, in all probability, self-financing.

(e) In order to have a proper and progressive evaluation of the self-financing aspect of the scheme, the adequacy of the level of the premiums has to be reviewed at least once a year.

(f) The premiums charged have to cover the normal risks associated with granting the guarantee, the administrative costs of the scheme and a yearly remuneration of an adequate capital.

(g) In order to ensure transparency, the scheme must provide for the terms on which future guarantees will be granted, such as eligible companies in terms of rating and, when applicable, sector and size, maximum amount and duration of the guarantees.

(33) The Commission considers that the relevant conditions listed under point 3.4. of the Guarantee Notice are fulfilled, as described under recital (26).

(34) More specifically, the Commission takes positive note of the fact that Greece will review the adequacy of the premiums at least once a year, by comparing the actual losses after recovery with the received premiums net of the administration and capital costs. The self-financing capacity of the scheme should be further supported by the full risk analysis of each new guarantee. On basis of this analysis, the guarantee will be classified in one risk class and the corresponding guarantee premium will be charged.

(35) Administrative and capital costs included in the premium calculation methodology are defined in accordance with the detailed provisions laid down in point 3.4 (f) of the Guarantee Notice. In particular, the calculated administrative costs include all costs related to control and risk management, as well as the management of securities.

(36) According to point 3.4 (f) of the Guarantee Notice, the State must be remunerated for its risk taking and to avoid disparities with the usual guarantors which are subject to capital requirement rules, and, in accordance with those rules, are forced to constitute equity in order not to go bankrupt when there are variations in the yearly losses related to guarantees. The Guarantee Notice mentions that the capital to be remunerated has to correspond to 8% of the outstanding guarantees and that a normal risk premium for equity amounts to at least 400 basis points. So the yearly guarantee premium must include at least 0.32% (i.e. 8% multiplied by 4%) as a remuneration of the capital. The remuneration of capital set by Greece in the methodology is therefore in line with that minimum requirement.

(37) In line with section 4.1 of the Guarantee Notice, for individual guarantees and guarantee schemes with an aid element, the Commission takes positive note that the Greek authorities will calculate the State aid element as being the difference between the theoretical market premium as calculated under the notified methodology and the fee actually invoiced to the borrower. The resulting yearly cash grant equivalents will be discounted to their present value using the reference rate and added up to obtain the total grant equivalent.

(38) The Greek authorities also commit to comply with the following elements listed under section 4.1 of the Guarantee Notice:

(a) Individual guarantees and guarantee schemes will not be open to borrowers in financial difficulty;

(b) The guarantees will be linked to specific financial transactions, for a fixed maximum amount and limited in time;

(c) The guarantees will not cover more than 80% of the outstanding amounts;

(d) The specific characteristiscs of the guarantees and loans will be considered when determining the theoretical market premium, as detailed under recital

(39) Finally, the Commission takes good note that the proposed methodology will be applied by the Greek authorities for a limited period of time (4 years). After 4 years, the Greek authorities confirm that they will reassess the scheme in collaboration with the Commission, and, if necessary, will make the appropriate amendments in order to improve the scheme based on the experience gathered by then.

4. CONCLUSION

(40) The Commission concludes that the methodogy allows an appropriate risk appraisal of the transactions supported by the State for the determination of the guarantee fees and an appropriate calculation of the aid element in guarantees with State aid. The Commission takes the view that the calculation method is in line with the Guarantee Notice.

5. DECISION

In light of the above, the Commission therefore accepts that the methodology is used by Greece for the calculation of market-conform fees for individual guarantees and guarantee schemes granted by the State to large companies and for the calculation of the aid element in guarantees with State aid. The aid comprised in guarantees and calculated according to the approved methodology will therefore be considered as transparent in the meaning of Article 5(2)(c)(ii) of the Commission Regulation (EU) N° 651/2014 ("GBER") and of Article 4(6)(d) under Commission Regulation (EU) N° 1407/2013 (*de minimis* Regulation).

The methodology is approved for four years from the moment of the adoption of this decision.

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 electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,
For the Commission

Margrethe VESTAGER
Member of the Commission