EUROPEAN COMMISSION

Brussels, 7.10.2016
C(2016) 6573 final

PUBLIC VERSION

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Subject: State aid SA.46558 (2016/N) – Greece – Liquidity support to Attica Bank

Sir,

1. PROCEDURE

(1) On 29 September 2016, the Greek authorities submitted to the Commission an informal request for granting a State guarantee on a bond to be issued by Attica Bank (the "Bank").

(2) On 6 October 2016, the Greek authorities submitted an individual notification to the Commission for granting a State guarantee on a bond to be issued by the Bank. That notification was made in line with the commitment undertaken by Greece in the Commission decision of 29 June 2016 on the Prolongation of the Guarantee Scheme for the second half of 2016[1] (the "Commission decision on the Prolongation of the Guarantee Scheme for H2 2016"), in particular with the obligation to submit an individual notification for granting liquidity support to a bank which has a capital shortfall. The Greek authorities included in the notification the Bank's request for a liquidity support, letters from the Bank of Greece accompanied by a capital raising plan and a list of commitments undertaken by the Hellenic Republic.

[1] See Commission decision of 29 June 2016 in State aid case SA.45629 (2016/N) – Prolongation of the Greek financial support measures (Art. 2 law 3723/2008), OJ C 284, 5.8.2016, p. 6.

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(3) By letter dated 6 October 2016, Greece agreed exceptionally to waive its rights deriving from Article 342 TFEU in conjunction with Article 3 of Regulation 1/1958[2] and to have the present decision adopted and notified in English.

2. FACTS

2.1. Description of the beneficiary

(4) The Bank provides a full range of banking and investment products and services in Greece to individuals, small and medium enterprises, and large companies. The bank's main shareholder is the Pension Fund of the Engineers and Public Works Contractors (TSMEDE) with 56,25% of the common shares. The Bank is incorporated in Greece and its shares are listed on the Athens Stock Exchange. The Bank is supervised by the Bank of Greece.

(5) As of 31 March 2016, the Bank had a network of 68 branches, total assets of EUR 3,7 billion, and deposits of EUR 2 billion. The post-tax profit of the Bank amounted to EUR 2,5 million for the first three months of 2016. The Non Performing Exposure ratio was 57,2% with a coverage ratio of 51,5%. The Common Equity Tier I ratio (CET 1) stood at 17,6%[3]. The total equity amounted to EUR 681 million.

(6) In May 2009, the Bank received under the recapitalisation scheme[4] a capital injection of EUR 100,2 million in the form of preference shares subscribed by Greece[5]. Until 26 July 2016, the Bank used the State guaranteed bond issued on 26 July 2013 amounting to EUR 215 million as collateral for Eurosystem financing operations.

2.2. Description of the aid measure

(7) The Bank requests the issuance of a State guaranteed bond of a nominal amount of EUR 380 million with a maturity of one (1) year. The Bank will issue the State guaranteed bond in one tranche until 26 October 2016. The fee for the State guarantee is set at 99 basis points.

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2 Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

3 http://www.atticabank.gr/images/siteimages/periodical_financial/2016/ENG/ATTICA%20BANK_FINANCIAL%20REPORT%2031032016.pdf.

4 The recapitalisation scheme, together with a guarantee scheme and a bond loan scheme were part of the support measures put in place by Greece to ensure the stability of the Greek financial system during the global financial crisis. The Commission approved the support measures on 19 November 2008. 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. A detailed description of the subsequent prolongations and amendments is provided in recitals 2 and 3 of the Commission decision of 29 June 2016 in State aid case SA.45629 (2016/N) – Prolongation of the Greek financial support measures (Art. 2 law 3723/2008), OJ C 284, 5.8.2016, p. 6.

5 See p. 9 of the Annual Financial Report of Attica Bank for the period from 1st January to 31st December 2009, available online at: http://www.atticabank.gr/images%5Csiteimages%5Cperiodical_financial%5C2009%5Cen%5CEN_ANNUAL_REPORT_2009.pdf.

3. POSITION OF GREECE

(8) The commitment listed in point (vii) of recital (14) of the Commission decision on the Prolongation of the Guarantee Scheme for H2 2016 provides that Greece commits, "*where a credit institution with a capital shortfall is in urgent need of liquidity, to submit an individual notification to the Commission*". The Bank of Greece confirms that the Bank has an outstanding capital need of EUR 67 million under the adverse scenario from the Comprehensive Assessment (CA) carried out in 2015. Hence, the Greek authorities confirm that the measure requires an individual notification as the Bank is not eligible to issue the bond with a State guarantee under the Commission decision on the Prolongation of the Guarantee Scheme for H2 2016.

(9) Greece submits that the measure constitutes 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 measure is compatible with the internal market on the basis of Article 107(3)(b) TFEU as it is necessary to remedy a serious disturbance in the economy of Greece. Moreover, Greece submits that the measure falls under Article 32(4)(d)(ii) of the Directive 2014/59/EU on bank recovery and resolution[6] because of the following reasons:

i. The aid is required "*in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability*",

ii. The aid is confined to a solvent institution,

iii. The aid is conditional on final approval under State aid framework and will not be provided before,

iv. The aid is of a precautionary and temporary nature,

v. The aid is proportionate to remedy a serious disturbance in the Greek economy,

vi. The aid "*shall not be used to offset losses that the institution has incurred or is likely to incur in the near future*".

(10) The Greek authorities submitted letters from the Bank of Greece dated 3, 4 and 6 October 2016.

(11) As regards the capital situation of the Bank, the Bank of Greece confirms that the Bank's capital adequacy ratios stand well above the minimum regulatory levels both on solo and on a consolidated basis. The Bank's Core Tier I ratio stood at 17,2%, on a consolidated basis as of 30 June 2016, well above the minimum regulatory levels. On that basis, the Bank of Greece confirms that the Bank is solvent.

[6] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC. 2002/47/EC, 2004/25/EC, 2005/56/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and EU No 648/2012, of the European Parliament and of the Council, OJ L 173, 12.06.2014, p. 190.

(12) As regards the CA carried out by the Bank of Greece on the Bank in the second half of 2015[7], it included an Asset Quality Review (AQR) of the Bank's assets and an assessment of the Bank's capital adequacy under two alternative macroeconomic scenarios, baseline and adverse. The CA identified a shortfall of EUR 857 million in the baseline scenario and EUR 1 021 million in the adverse scenario[8]. Following the disclosure of the CA results, the Bank, upon request by the Bank of Greece, submitted on 4 November 2015 a capital raising plan. Specific actions of the plan amounting to EUR 273 million were accepted, reducing the capital requirements under the baseline and adverse scenario to EUR 584 million and EUR 748 million respectively. The Bank of Greece endorsed the capital raising plan on 10 November 2015[9]. Following the completion of a share capital increase of EUR 681 million at the end of 2015, the Bank fully covered the capital shortfall identified under the baseline scenario and the largest part of the capital shortfall in the adverse scenario. After the share capital increase, a capital shortfall of EUR 67 million in the adverse scenario constitutes the last remaining portion to be covered out of the total capital shortfall. The Bank of Greece provided information on the current steps that Attica is undertaking in order to cover the remaining capital shortfall, which consist in seeking a capital injection from private parties, with contacts under way, and the relevant tender offer period for investors ending by mid-October 2016. The Bank of Greece monitors the implementation of the capital raising plan.

(13) As regards the fee for the State guarantee, the Bank of Greece provided in their letter dated 4 October 2016 a fee for the State guarantee, based on an application of the remuneration formula and recent market data in line with the requirements of the 2011 Prolongation Communication[10]. The fee for the State guarantee covering the bond with one-year maturity issued by the Bank before 26 October 2016 is set at 99 basis points on the basis of the CDS spreads of the sample of representative European banks in the lowest rating buckets (BBB and below).

(14) The Bank of Greece also confirmed that the Bank has no hybrid instruments.

(15) The Bank justifies the urgent need of liquidity in its request of liquidity support submitted to the Greek authorities on 5 October 2016. The Bank submits that from end-2014 to end-2015, the total deposits of the Greek banking system have decreased dramatically due to uncertainties related with developments at the political level, and have not recovered since then. Since mid-September 2016 though, the Bank's deposits have decreased significantly as the Bank was the object of particularly unfavorable media publicity relating mainly to the audit that was performed in 2016 by the Single Supervisory Mechanism (SSM) and the Bank of Greece, despite the fact that the Bank's capital adequacy ratios remain high.

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7 The CA conducted by the Bank of Greece took place in the context of the Memorandum of Understanding between the European Commission acting on behalf of the European Stability Mechanism and the Hellenic Republic and the Bank of Greece.

8 The CA results and background were publicly announced on the site of the Bank of Greece on 31 October 2015, together with the results of the CA exercise of the four systemic banks, i.e. Alpha Bank, Eurobank, Piraeus Bank and National Bank of Greece.

9 Decision 153/1/10-11-2015 of the Credit and Insurance Committee of the Bank of Greece.

10 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, 06.12.2011, p. 7.

(16) Despite the Bank's efforts, this had a negative impact on the Bank's liquidity position, as large deposit outflows took place. More specifically, total deposits have dropped from EUR 2,07 billion on 13 September 2016 to EUR 1,87 billion on 3 October 2016. As a result, the bank's dependence on Emergency Liquidity Assistance (ELA) has risen from EUR 915 million on 13 September 2016 to EUR 1,115 billion on 3 October 2016. The Bank submits that the State guaranteed bond will be used as collateral for Eurosystem financing operations and it should be enough to cover the current liquidity needs of the Bank.

(17) As regards the notified measure, the Bank of Greece describes the current liquidity situation of the Bank, with reference to deposit outflows during the last two weeks preceding the notification caused by negative publicity around the results of the on-site inspection carried out by the SSM and the Bank of Greece. The Bank of Greece submits that, despite the fact that the Bank has shown full compliance with the follow up actions required by the Bank of Greece, the deposit base has not yet stabilized. This consequently led to a quick increase in the amounts drawn through the ELA mechanism and to a subsequent reduction of the unencumbered collateral for ELA funding. In view of those developments, the Bank of Greece submits that the Bank's request for the issuance of a State guaranteed bond of a nominal amount of EUR 380 million is well grounded from a conservative supervisory point of view. The Bank of Greece also submits that the measure will not be used to offset losses that the institution has incurred or is likely to incur in the near future.

(18) Greece submitted the following commitments relating to the measure:

i. To grant the guarantees only for new issuance of credit institutions' senior debt (subordinated debt is excluded);
ii. To provide guarantees only on debt instruments with maturities from three months to one year;
iii. To determine the minimum level of State guarantee remuneration in line with the formula set out in the Commission's Communication 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[11];
iv. To submit a restructuring or a wind-down plan of the Bank within two months of the granting of the guarantees (unless the aid is reimbursed within two months);
v. To impose a ban on advertising referring to the State support granted to the Bank for the purpose of acquiring new clients and business and to prevent the Bank from employing any aggressive commercial strategies which would not take place without the State support.
vi. To suspend any dividend payment as long as the Bank is still benefitting from the State guarantee;
vii. To impose an acquisition ban for the Bank, as long as the Bank is still benefitting from the State guarantee.

[11] OJ C 356, 6.12.2011, p. 7

4. ASSESSMENT

4.1. Existence of State aid

(19) 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.

(20) The Commission observes that the Greek authorities did not dispute that the measure constitutes State aid. Under the measure, the Bank receives a State guarantee under conditions which would not be available to the Bank in the market, and so it receives an advantage. The measure will strengthen the liquidity position of the Bank and thus provide an advantage which distorts competition. Since financial institutions from other Member States operate in Greece, the measure is also likely to affect trade between Member States. The measure is also selective as it is only granted to the Bank. The measure therefore constitutes State aid within the meaning of Article 107(1) TFEU.

4.2. Compatibility assessment

(21) Recital 27 of the Commission decision on the Prolongation of the Guarantee Scheme for H2 2016 provides that: "*Points 23 and 60(a) of the 2013 Banking Communication explain that guarantee schemes will continue to be available in order to provide liquidity to banks but that such schemes should be limited to banks without a capital shortfall*". According to recital 14 and the commitment listed in point (vii), Greece has committed to restrict the Guarantee Scheme only to banks without a capital shortfall as certified by the competent supervisory authority. The relevant footnote to commitment (vii) reads: "No capital shortfall" is certified by the competent supervisory authority, as it is established, in line with point 28 of the 2013 Banking Communication, in a capital exercise, stress test, asset-quality review or an equivalent exercise at Union, euro area or national level, which has to be confirmed by the competent supervisory authority.

(22) The letter provided by the Bank of Greece states that the Bank has an outstanding capital shortfall of EUR 67 million under the adverse scenario from the CA of 2015. Therefore an individual notification to the Commission is necessary in accordance with commitment (vii) undertaken by Greece, i.e. "*where a credit institution with a capital shortfall is in urgent need of liquidity, to submit an individual notification to the Commission.*"

(23) According to that commitment, the Greek authorities have notified the provision of liquidity support to the Bank. Therefore, the Commission needs to assess its compatibility in the present decision.

(24) Point 58 of the 2013 Banking Communication provides that in such circumstances, "*the Commission will apply the procedure set out in points 32 to 34 mutatis mutandis, including the requirement for a restructuring or wind-down plan, unless the aid is reimbursed within two months*". The need for additional scrutiny by the Commission in case of liquidity aid being granted to a bank with a capital shortfall

stems in particular from the fact that additional safeguards are warranted to limit distortions of competition.

4.2.1 Legal basis

(25) Under the measure, Greece intends to provide aid in the form of a State guarantee for a bond to be issued by the Bank.

(26) Given the exacerbation of tensions in sovereign debt markets that has taken place since 2011 and in light of the persisting circumstances and risks, the Commission considers it appropriate, as confirmed by the 2013 Banking Communication[12], to examine the measure under Article 107(3)(b) TFEU.

(27) Article 107(3)(b) TFEU, in particular, empowers the Commission to find that aid is compatible with the internal market if it is intended *"to remedy a serious disturbance in the economy of a Member State"*. The Commission has acknowledged that the global financial crisis can create a serious disturbance in the economy of a Member State and that measures supporting banks are apt to remedy that disturbance. That assessment has been confirmed in the Recapitalisation Communication[13] and the Restructuring Communication[14]. The Commission still considers that the conditions for State aid to be approved pursuant to Article 107(3)(b) TFEU are present. The Commission confirmed that view by adopting the 2013 Banking Communication[15].

(28) The Commission does not dispute the position of the Greek authorities regarding the stressed liquidity position of the bank. The Commission remarks that the Bank's liquidity position was initially deteriorated by the application of a bank holiday on 28 June 2015 and the subsequent maintenance of capital controls since banks reopened on 20 July 2015. The Commission observes that the deposit outflows encountered by the Bank since mid-September 2016 have significantly weakened its liquidity position. The Bank's dependence on ELA increased significantly and led to a subsequent reduction of the unencumbered collateral for ELA funding. The measure is, therefore, necessary for strengthening the liquidity position of the Bank. Hence, the Commission finds that the measure aims at ensuring financial stability and, thus, remedying a serious disturbance in the Greek economy.

(29) Therefore, the Commission continues to base its assessment of State aid measures in the banking sector on Article 107(3)(b) TFEU.

(30) The Commission has recently found the Prolongation of the Guarantee Scheme for H2 2016 compatible with the internal market on the basis of Article 107(3)(b) TFEU.

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[12] 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, OJ C 216, 30.7.2013, p. 1.

[13] Commission Communication - Recapitalisation of financial institutions in the current financial crisis: limitation of the aid to the minimum necessary and safeguards against undue distortions of competition, OJ C 10, 15.1.2009, p. 2.

[14] Commission 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, OJ C 195, 19.8.2009, p. 9.

[15] See points 4-6 of the 2013 Banking Communication.

(31) In order for an aid to be compatible with the internal market, it must comply with the general principles for compatibility under Article 107(3) TFEU, viewed in the light of the general objectives of the Treaty. Therefore, according to the Commission's decisional practice[16] any aid or scheme must comply with the following conditions: (i) appropriateness, (ii) necessity and (iii) proportionality.

(32) The 2013 Banking Communication and the Restructuring Communication formulate assessment criteria which reflect those general principles and their requirements in light of the specific policy context.

4.2.2 Compatibility assessment of the measure

Appropriateness

(33) The measure is appropriate to remedy a serious disturbance in the Greek economy. The objective of the measure is to strengthen the liquidity position of the Bank. The Commission observes that despite its capital position, the Bank is facing significant deposit outflows since mid-September 2016. The Commission observes that the latest negative media publicity has eroded confidence in the creditworthiness of the Bank, which resulted in difficulties in obtaining necessary funding on the financial markets. Hence, the provision of liquidity support to the Bank is an appropriate means to restore market confidence in the Bank.

(34) The Commission notes that Greece has committed to grant guarantees only for new issuances of the Bank's senior debt, as prescribed in point 59(a) of the 2013 Banking Communication.

Necessity

(35) With regard to the scope of the measure, the Commission notes that Greece has limited the size of the measure to EUR 380 million and that the maturity of the State guaranteed bond is one year. The Commission has no reason to dispute the assessment of the Bank of Greece that this amount is well grounded from a conservative supervisory point of view, given the rapid deterioration of the liquidity position of the Bank over the two weeks preceding the notification as well as the size of its reliance on ELA and the remaining size of unencumbered ELA eligible collateral.

(36) The Commission notes that Greece has committed to grant the guarantee only on a debt instrument with a maturity of one year, which complies with the requirements in points 59(b) and 60(b) of the 2013 Banking Communication.

(37) Regarding the remuneration level, the Commission notes that the Bank of Greece calculated a fee of 99 basis points for the State guarantee on the basis of the CDS spreads of the sample of representative European banks in the lowest rating buckets (BBB and below). The Commission observes that, in line with point 59(c) of the 2013 Banking Communication, Greece has committed to follow the pricing and other conditions for State guarantees laid down in the 2011 Prolongation

[16] See Commission decision of 6.9.2013 in State Aid Case SA.37314 "Rescue aid in favour of Probanka", OJ C 314, 29.10.2013, p. 1 and Commission decision of 6.9.2013 in State Aid Case SA.37315 "Rescue aid in favour to Factor Banka", OJ C 314, 29.10.2013, p. 2.

Communication which requires, in particular, the application of a pricing method based largely on market data.

Proportionality

(38) As regards proportionality, the Commission notes that Greece, in line with point 58 of the 2013 Banking Communication, has committed to submit a restructuring or a wind-down plan within two months, unless the aid is reimbursed within those two months.

(39) Furthermore, the Commission notes that Greece has committed, in line with point 59(f) of the 2013 Banking Communication, to a number of behavioural safeguards such as a ban on advertisements referring to the State support and a ban on any aggressive commercial strategies which would not take place without the State support. Such safeguards help ensure that the Bank do not misuse the received State support to expand its activities.

(40) In addition, the Commission notes that Greece, in line with point 32 of the 2013 Banking Communication, submitted to the Commission the capital raising plan submitted by the Bank in 2015 and endorsed by the Bank of Greece. The Bank of Greece is monitoring the implementation of that capital raising plan. The Commission notes that Greece has also undertaken commitments to prevent the outflow of funds from the Bank, such as the suspension of dividend payment and an acquisition ban as long as the Bank is still benefitting from the State guarantee.

(41) As regards the combination of the measure with other aid measures, the Commission recalls that, as indicated in the Annex to the Restructuring Communication, the restructuring plan or the wind-down plan to be submitted should contain all State aid received as individual aid or under a scheme during the restructuring period.

Conclusions on the compatibility

(42) On the basis of the above, the Commission finds the measure to be in line with the 2013 Banking Communication and the Restructuring Communication. The measure is appropriate, necessary and proportionate to remedy a serious disturbance of Greek economy.

5. COMPLIANCE WITH THE INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU

(43) The Commission notes that the measure does not violate intrinsically linked provisions of Directive 2014/59/EU on bank recovery and resolution, which in this specific case relate to its Article 32(4)(d)(ii).[17]

(44) The first subparagraph of Article 32(4) of Directive 2014/59/EU establishes that an institution shall be deemed to be failing or likely to fail and placed into resolution, (if all the other pre-conditions for resolution are met), where, *inter alia*, extraordinary public financial support is required, except when, in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability, the extraordinary public financial support takes the form, inter alia, of a

[17] Transposed into Greek law by Law 4335/2015.

State guarantee of newly issued liabilities (Article 32(4)(d)(ii) of Directive 2014/59/EU).

(45) The second subparagraph of Article 32(4) of Directive 2014/59/EU provides that in order not to trigger resolution such State guarantees on newly issued liabilities must be confined to solvent institutions and must be conditional on final approval under the Union State aid framework. Those measures must be of a precautionary and temporary nature, they must be proportionate to remedy the consequences of the serious disturbance and they must not be used to offset losses that the institution has incurred or is likely to incur in the near future.

(46) The Commission notes that the measure is granted to one bank, Attica Bank, which the Bank of Greece considers a solvent institution which experiences temporary liquidity stress. The Bank of Greece confirmed that the Bank's Core Tier I ratio stood at 17,2%, on a consolidated basis as of 30 June 2016, i.e. well above the minimum regulatory levels. The guarantee granted is of a temporary nature, since its maturity is one year, and is of a precautionary nature, since it only covers newly issued liabilities. The Commission also notes that the Bank of Greece confirmed that the measure will not be used to offset losses that the institution has incurred or is likely to incur in the near future. The guarantee granted is also proportionate to remedy the consequences of the serious disturbance as explained in recital (33). Therefore, at the present stage, the Commission concludes that the aid measure does not violate the intrinsically linked provisions of Directive 2014/59/EU.

(47) The Commission therefore concludes that the notified measure does not violate any intrinsically linked provisions of Directive 2014/59/EU. The measure is in compliance with the requirements of Article 32(4) of Directive 2014/59/EU and apt to remedy the consequences of the serious disturbance in the Greek economy.

6. CONCLUSION

The Commission has accordingly decided to consider the aid to be compatible with the internal market pursuant to Article 107(3)(b) TFEU and not to raise objections to the liquidity support granted to Attica Bank.

Greece exceptionally accepts that the present decision be adopted and notified in the English language, for reasons of urgency.

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
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Yours faithfully,
For the Commission

Margrethe VESTAGER
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
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