



Brussels, 27.01.2017
C(2017) 461 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...].</p>		<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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Subject: SA.47174 (2016/N) - Amendment of the Restructuring of Banco CEISS through integration with Unicaja Banco. Amendment to the restructuring plan of Banco CEISS – Spain

Sir,

1. PROCEDURE

- (1) By decision of 20 December 2012 ("**the December 2012 Decision**")¹, the Commission approved a restructuring plan for Banco CEISS based on the concept of a stand-alone restructuring.
- (2) By decision of 13 May 2013 ("**the May 2013 Decision**")², the Commission approved a new restructuring plan for Banco CEISS on the basis of a takeover of that bank by Unicaja Banco.
- (3) On 25 February 2014 Spain formally notified the modification of an existing aid measure and a new aid measure, which the Commission approved by Decision of 12 March 2014 ("**the March 2014 Decision**")³ on the basis of an amended

¹ Commission Decision, case SA.34536 (2012/N) – Spain: Restructuring and recapitalisation of Banco CEISS, OJ C96, 4.4.2013, p. 1.

² Commission Decision, case SA.36249 (2013/N) – Spain: Restructuring of Banco CEISS through integration with Unicaja Banco, OJ C 256, 5.9.2013, p. 5.

³ Commission Decision, case SA.36249 (2014/N-3) – Spain: Amendment of the Restructuring of CEISS through integration with Unicaja Banco, OJ C 141, 9.5.2014, p. 1.

Excmo. Sr. D. José Manuel García-Margallo y Marfil
Ministro de Asuntos Exteriores y de Cooperación
Plaza de la Provincia 1
E-28012 MADRID

restructuring plan. The Spanish authorities committed – as part of the restructuring plan – to present a credible timeline by June 2014 in order for Unicaja Banco to become publicly traded no later than 31 December 2016.

- (4) In October 2016, Spain informed the Commission of the unlikelihood of complying with the listing commitment for Unicaja Banco before 31 December 2016 and entered into discussions with DG Competition with a view to obtaining an amendment of the commitment.
- (5) On 23 December 2016, Spain formally notified a request to amend the March 2014 Decision, in particular requesting a [...] (*) extension of the deadline to list Unicaja Banco, i.e. until no later than [...].
- (6) By letter dated 11 January 2017, Spain agreed exceptionally to waive its rights deriving from Article 342 TFEU in conjunction with Article 3 of Regulation 1/1958⁴ and to have the present decision adopted and notified in English.

2. FACTS

2.1. Description of the beneficiary

- (7) Caja CEISS was a Spanish savings bank, registered with the Bank of Spain, which was created from the merger on 4 October 2010 of Caja Duero and Caja España, which were subsequently dissolved as a result of that merger. Pursuant to Royal Decree Law 2/2011, Caja CEISS approved on 5 September 2011 and executed on 5 December 2011 the transfer of all of its banking business to a newly established banking entity, Banco CEISS.
- (8) Banco CEISS is a commercial bank which operates mainly in the Spanish region of Castilla y León and the province of Cáceres ("**the Core Regions**"). Banco CEISS has been described extensively in recitals (5) to (7) of the May 2013 Decision.
- (9) Unicaja is a credit institution resulting from the merger of several savings banks (Montes de Piedad y Caja de Ahorros de Ronda, Cádiz, Almería and Málaga y Antequera). Unicaja Banco is the bank through which Unicaja performs its financial activity. It is present in 18 Spanish provinces, including the eight Andalusian provinces, as well as in Albacete, Alicante, Badajoz, Barcelona, Ciudad Real, Madrid, Murcia, Toledo, Valencia and Valladolid. It also has branches in the autonomous cities of Ceuta and Melilla, as well as in Lisbon and London.

2.2. The March 2014 Decision

- (10) The March 2014 Decision approved an amended restructuring plan for Banco CEISS and a modified term sheet including a new set of commitments. A detailed description of the measures and the amended restructuring plan and commitments is provided in recitals (25) to (36) of the March 2014 Decision.

(*) Confidential information.

⁴ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

- (11) The Spanish authorities committed, *inter alia*, that Unicaja Banco would present a credible timeline by June 2014 in order to become publicly traded no later than 31 December 2016.

2.3. Listing of Unicaja Banco

- (12) In June 2014, Unicaja presented an initial timeline for an IPO to the Commission. The initial target date for an IPO was [...] 2016. This calendar was approved by the Board of Directors of Unicaja and was also presented to the Bank of Spain in June 2014. The plan described all relevant work streams and required changes to formalise the IPO. The initial target date for the IPO was subsequently postponed to [...], [...], [...] and then [...] upon recommendation of Unicaja's advisors. The primary reasons to defer the listing were based on adverse market conditions which would put the IPO at risk of failure.
- (13) Unicaja's financial advisor for the listing process provided advice before each execution window on the market conditions and the timing of listing. Throughout 2016, the advice on the outlook for the equity markets took into account the factors such as the results of the UK referendum to leave the European Union, the Spanish general elections, the uncertainty in e.g. the Italian and Portuguese financial markets and the uncertainty on the markets following the July ECB-EBA stress tests.
- (14) According to Unicaja's financial advisor, throughout 2016, institutional investors had very limited interest in European banks in general and in peripheral banks in particular. The lack of interest in the banking sector translated in low sector equity issuances in 2016 in comparison with previous years, both in terms of overall volumes and in terms of number of deals. In the first 9 months of 2016, European financial sector deals in total remained below EUR 15 billion, which compares with figures above EUR 50 billion per annum from 2010 onwards. In terms of number of deals, it is worth noting that in 2016 there were only six deals above EUR 1 billion, down from more than 20 deals per annum in previous years.
- (15) Unicaja's financial advisor also observed that the equity market valuations of Spanish domestic banks remained at historical lows, with some banks trading around 0.30x times their tangible book value. On 15 November 2016, Spanish banks' stock prices were 35% down on a year-on-year basis, which compares with a 14% year-on-year decrease of the Ibex 35 (Spanish all sectors equity index). In that same period, European banks' stocks were also down around 20%.
- (16) Unicaja's financial advisor argues that such valuations and market performances are, among others, the consequence of macroeconomic and political uncertainties following the outcome of the UK referendum, but also due to the [...] market situation at a domestic level [...]. On the other hand, investors perceive that the pressure on sector revenues remains high due to the continued deleveraging of the economy and the decrease in loan stocks, to high competition for new loan business and to the negative impact of historically low interest rates levels.
- (17) Finally, Unicaja's financial advisor believes that the news on the Italian and Portuguese banking sectors, together with regulatory uncertainties have reduced the interest from investors in European peripheral banks.

- (18) As a result of this analysis, on 12 December 2016, the Board of Unicaja Banco decided to postpone the IPO to [...].

2.4. Repayment of contingent convertible securities

- (19) On 30 April 2013, Banco CEISS received a capital injection through the issuance of contingent convertible securities (“**the CoCos**”), in the amount of EUR 604 million solely subscribed by the FROB⁵.
- (20) In the March 2014 Decision, Spain committed that Banco CEISS and Unicaja, ultimately, to the extent that Banco CEISS is not capable of doing so, would repay in full the CoCos injected by the FROB within 4 years at most counting from the date of their issuance⁶. Moreover, a repurchase schedule was committed in function of the excess regulatory capital of Banco CEISS. The repurchase of the CoCos would be mandatory by [...]. This obligation will be carried out in [...] once the financial statements of the fiscal year used as a reference were closed, and no later than 30 April 2018 in accordance with Spanish Law 9/2012.
- (21) Based on this commitment, Banco CEISS/Unicaja have the obligation to repay the CoCos during [...], after the closing of the financial statements of the year [...].

3. POSITION OF THE SPANISH AUTHORITIES

- (22) The Spanish authorities underline that Unicaja has designed the IPO process and with the help of external advisors had done all the work to prepare a listing. They explain that under the prevailing market circumstances, it was however not possible to pursue the IPO without putting at risk the reputation of the group.
- (23) The Spanish authorities therefore request the extension of the deadline to list Unicaja from the current deadline of 31 December 2016 to [...].
- (24) To maintain the balance of measures on which the March 2014 Decision considered the aid compatible, Spain submitted the following commitments:

- (i) An additional reduction of branches and FTEs.

Spain and Banco CEISS commit to achieve an additional reduction of [300 – 500] employees (FTEs) and [20 – 30] branches from [...] and before [...]. In particular, Banco CEISS shall reduce FTEs from [3,100 – 3,000] to [2,800 – 2,500] and branches from [500 – 490] to [480 – 460], before [...].

- (ii) The listing of Unicaja Banco.

Unicaja Banco shall become publicly traded no later than [...]. A corporate transaction where the shares of the resulting entity are listed on the Stock Exchange will result in compliance with this commitment. A trade sale (e.g. to a private equity company) insofar as it is combined with a capital increase which would allow to repay the CoCos in full before [...] (in line with the

⁵ FROB means Fondo de Reestructuración Ordenada Bancaria which is the Spanish public Fund for Orderly Bank Restructuring.

⁶ 30 April 2013.

scheme included in the new commitment "Early repayment of the CoCos") would also be considered equivalent to a listing.

- (iii) An early repayment of the CoCos.

If during the year [...] Unicaja Banco manages to raise new capital by any means, it shall proceed to the early repayment of the CoCos according to the following scheme:

- repayment for an amount equivalent to [60 – 40]% of the new capital raised, within a maximum of [...] months from the date of the capital raise.
- repayment for an amount equivalent to the remaining [40 – 60]% of the new capital raised, no later than [...].

The early repayment of the CoCos is conditioned in any case to:

- obtaining the corresponding authorizations, in particular from the banking supervisors, and
- that the level of capital of Unicaja Group will not be lower than the ECB capital requirements plus a buffer of [40 – 60] basis points.

If, for any reason, Unicaja Banco were not listed on the Stock Exchange or the CoCos had not been repaid in full before [...], the Spanish authorities undertake the commitment to re-notify the case to the Commission.

4. INFORMATION FROM THE MONITORING TRUSTEE

- (25) The Monitoring Trustee has confirmed that Unicaja has duly prepared the necessary documentation and taken the necessary steps in order to be in a position to list at each of the execution windows prior to receiving the recommendation of their advisors to defer the listing. The advisors' recommendations to not execute the IPO at each window were due to the potential risk that the IPO would fail due to the lack of interest from institutional investors and not solely related to pricing considerations or not being sufficiently prepared for an IPO. The Monitoring Trustee considered therefore that, in terms of preparations, Unicaja had taken the necessary actions to prepare and be listed before the deadline and Unicaja's assertion that each decision to defer had been based on market conditions rather than the bank's state of preparation was reasonable.

5. ASSESSMENT

- (26) As regards the question whether Spanish authorities explored all options to comply with their commitment, the Commission observes that the extension of the deadline for the listing of Unicaja is due the market conditions which are outside Unicaja's control and not due to lack of preparation from the side of Unicaja, as was also confirmed by the Monitoring Trustee as set out in recital (25). The Commission also notes that in October 2016, Spain already informed the Commission of the unlikelihood of complying with the listing commitment for Unicaja Banco before 31 December 2016 and entered into discussions with DG Competition with a view to obtaining an amendment of the commitment.

- (27) A restructuring decision can in principle be amended by the Commission where the amendment does not entail any additional aid and the modification is based on new commitments which can be considered equivalent to those originally provided.⁷ In that situation, the existing aid measures would remain compatible on the basis of Article 107(3)(b) TFEU if the overall balance of the original decision remained. In order for the original balance to remain intact, the altered commitments should not negatively affect the viability of the aid beneficiary, while the overall set of commitments should remain equivalent in terms of burden-sharing and compensatory measures taking into account the requirements of the Restructuring Communication.⁸
- (28) The Commission observes that the requested amendment does not entail any additional State aid to Banco CEISS or Unicaja. The requested amendment concerns merely the exchange of one commitment with other commitments. While the deadline to list Unicaja is extended to [...], Spain commits that Banco CEISS and Unicaja will engage in a series of additional measures oriented to improve the efficiency and viability of Banco CEISS and will advance the repayment of the CoCos to no later than [...].

5.1. Viability of Banco CEISS

- (29) In the absence of additional aid, the Commission will not assess the viability of Banco CEISS afresh. It will only examine whether the proposed modifications to the restructuring plan call into question the conclusion as to Banco CEISS's viability reached in the March 2014 Decision.
- (30) The notified amendments are relevant for the viability of Banco CEISS insofar as the listing of Unicaja would give the group more options in terms of financing and market access in case that those were needed. It also implies that the corporate governance of Unicaja has to meet the accepted quality standards applicable in the industry. In this sense, the extension of the deadline could have a somewhat negative effect on the viability of Banco CEISS.
- (31) Spain however commits that Unicaja will make further progress in the operational integration of Banco CEISS as it will directly provide the following services to Banco CEISS: compliance and anti-money laundering, internal audit process execution, marketing and product design, legal and taxes, commercial activity monitoring and reporting, customer claims resolution service, risk control, measurement and monitoring, retail customers and treasury operations and back office and human resources administration.
- (32) Banco CEISS will also close [20 – 30] additional branches, [10 – 20] of them in the core area and Madrid and [0 – 10] branches in the non-core area before [...].

⁷ For other similar decisions see, for instance, SA.29833 KBC – Extension of the target date of certain divestments by KBC and Amendment of restructuring commitments, OJ C 135, 9.5.2012, p. 5 : SA.29833 KBC – Accelerated phasing-out of the State Protection measure and amendments to the KBC restructuring plan, OJ C 163, 8.06.2013, p. 1; SA.34539 Commerzbank – Amendment to the restructuring plan of Commerzbank, OJ C 177, 20.06.2012, p. 20.

⁸ 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.

- (33) The number of FTEs of Banco CEISS will also decrease from [3,100 – 3,000] as of [...] to [2,800 – 2,500] as of [...].

- (34) The following tables show the impact of the additional measures in terms of number of branches and FTEs and in terms of cost reduction for Banco CEISS each year.

Table 1: Additional efficiency measures

	30/09/2016	31/12/2016	31/12/[...]	Additional reduction
Branches	[500 – 490]	[500 – 490]	[480 – 460]	-[20 – 30] branches
FTE	[3,100 – 3,000]	[3,100 – 3,000]	[2,800 – 2,500]	-[300 – 500] FTE

Table 2: Estimated savings from additional efficiency measures

EUR million	2017	2018
Restructuring savings	-[5 – 10]	-[20 – 30]
Outsourcing costs	[0 – 5]	[5 – 10]
Total savings	-[0 – 10]	-[10 – 25]

- (35) The additional proposed measures will result in an improvement of the cost to income ratio of Banco CEISS for [...] of [300 – 500]bp(...).
- (36) The Commission considers that the amendment of commitments overall do not affect negatively the viability of Banco CEISS.

5.2. Burden-sharing

- (37) Spain commits that Unicaja will guarantee the repayment of the CoCos once it becomes publicly traded, no later than [...], provided that the conditions described in recital (24) are met.
- (38) The Commission considers that by potentially bringing forward the repayment of the CoCos, the current amendment would have a positive effect in terms of burden-sharing with respect to the assessment in the March 2014 decision. Indeed, by not keeping the aid in the company longer than needed, the new commitments provide further reassurance that the aid does not exceed the minimum necessary.

5.3. Distortions of competition

- (39) As set out in recital (24), the new commitments imply that the aid will be potentially repaid at an earlier stage. Repaying the aid earlier is an effective manner to reduce distortions of competition and therefore the Commission looks at that commitment also positively from a competition perspective. Moreover, the reduction in Banco CEISS' size, which can be seen in Table 1, as a result of the additional restructuring will further reduce the negative effects of the aid on competition. The current amendment does not negatively affect the assessment of distortions of competition in the March 2014 decision.

5.4. Conclusion

- (40) In conclusion, the proposed amendments do not have a negative impact on Banco CEISS's viability, while the amended commitments are equivalent to the original ones in terms of burden-sharing and mitigation of competition distortions. The replacement of the original commitment by the new commitments does not alter the compatibility of the aid with the internal market as concluded by the March 2014 Decision.

6. CONCLUSION

The proposed amended commitments do not affect the compatibility of the State aid provided to Banco CEISS with the internal market on the basis of Article 107(3)(b) TFEU.

The Commission notes that Spain exceptionally accepts the decision to be adopted in the English language.

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 by registered letter or 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



ANNEX: Modification of commitments

ANEXO

AMENDMENT OF THE TERM SHEET ATTACHED TO THE EUROPEAN COMMISSION DECISION OF 12 MARCH 2014, STATE AID SA.36249 (2014/N-3) – AMENDMENT OF THE RESTRUCTURING OF CEISS THROUGH INTEGRATION WITH UNICAJA BANCO

1. Reduction of Branches and FTEs

A new commitment is included in point 5.5 of the Term Sheet, with the following wording:

"Spain and Banco CEISS commit to achieve an additional reduction of [300 – 500] employees (FTE) and [20 – 30] branches from [...] and before [...]. In particular, Banco CEISS shall reduce FTEs from [3,100 – 3,000] to [2,800 – 2,500] and branches from [500 – 490] to [480 – 460], before [...]."

2. Listing of Unicaja Banco

The commitment in point 11.7 of the Term Sheet is replaced by the following wording:

"Unicaja Banco shall become publicly traded no later than [...]. A corporate transaction where the shares of the resulting entity are listed on the Stock Exchange will result in compliance with the commitment set forth in this point. A trade sale (e.g. to a private equity company) insofar as it is combined with a capital increase which would allow to repay the CoCos in full before [...] (in line with the scheme included in the new commitment "Early repayment of the CoCos") would also be considered equivalent to a listing."

3. Early repayment of the CoCos

A new commitment regarding the early repayment of the CoCos is included, with the following wording:

"If during the year [...] Unicaja Banco manages to raise new capital by any means, it shall proceed to the early repayment of the CoCos according to the following scheme:

- *Repayment for an amount equivalent to [60 – 40]% of the new capital raised, within a maximum of [...] months from the date of the capital raise.*
- *Repayment for an amount equivalent to the remaining [40 – 60]% of the new capital raised, no later than [...].*

The early repayment of the CoCos is conditioned in any case, to:

- *obtaining the corresponding authorizations, in particular from the banking supervisors, and*
- *that the level of capital of Unicaja Group will not be lower than the ECB capital requirements plus a buffer of [40 – 60] basis points.*

If, for any reason, Unicaja Banco were not listed on the Stock Exchange or the CoCos had not been repaid in full before [...], the Spanish authorities undertake the commitment to re-notify the case to the European Commission."