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**PUBLIC VERSION**

**WORKING LANGUAGE**

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**Subject: State aid N 47d/2009 - Austria – Temporary modification of risk-capital aid.**

Dear Sir,

## **1. PROCEDURE**

- (1) On 30 January 2009, Austria notified to the Commission an overall framework measure, *Rahmenregelung für Beihilfemassnahmen zur Bekämpfung der aktuellen Finanz- und Wirtschaftskrise*, consisting of 5 specific aid measures. According to the notification document, said specific measures fall within the Temporary framework for State aid measures to support access to finance in the current financial and economic crisis<sup>1</sup> (hereinafter referred to as "the Temporary Framework"). The notified measure is intended to counter the present financial and economic crisis in Austria.
- (2) The Commission split that notification into several sub-notifications, N 47 a), b), c), d), e)/2009, corresponding to the individual objectives of these specific aid measures. The present decision covers State aid case N 47d/2009. The object of the specific measure in question is setting forth temporary modifications of risk-capital aid - *Rahmenregelung für vorübergehende Risikokapitalerleichterungen* (thereinafter "the measure in question").
- (3) By e-mail of 13 February 2009, the Commission asked for supplementary information on both the overall framework measure and its various specific aid measures, including the measure in question. The Austrian authorities submitted information by e-mails of 5 March 2009, registered on the next day, and of 13 March 2009, registered on 17 March 2009.

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<sup>1</sup> OJ C 16, 22.1.2009, p.1; amended on 25.2.2009; amendment not yet published in the OJ; available under [http://ec.europa.eu/competition/state\\_aid/legislation/horizontal.html](http://ec.europa.eu/competition/state_aid/legislation/horizontal.html)

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- (4) By e-mail of 17 March 2009, the Commission asked for further information on the measure in question. The Austrian authorities replied by e-mail of 18 March 2009, registered on the same day.
- (5) By letter dated 20 March 2009, registered on the same day, the Austrian authorities formally submitted the information they had provided by abovementioned e-mails.

## 2. DESCRIPTION

### 2.1. Description of the notified temporary modification of risk-capital schemes

- (6) The measure in question, *Rahmenregelung für vorübergehende Risikokapitalerleichterungen*, will modify two risk-capital schemes, namely:

- Risk-capital scheme *Eigenkapitalgarantien*, State-aid case N 160/2007. The Commission approved that scheme on 19 October 2007<sup>2</sup>.
- Risk-capital scheme *Risikokapitalmaßnahmen im Rahmen der Richtlinie "Übernahme von Haftungen für die Tourismus- und Freizeitwirtschaft 2007 - 2013"*, State-aid case N 554/2008.

The approval of that scheme was still pending at the date of adoption of this decision. The Austrian authorities are of the opinion that this scheme falls within the Community Guidelines on State aid to promote risk capital investments in small and medium-sized enterprises (thereinafter "Risk-Capital Guidelines")<sup>3</sup>. The Austrian authorities declared that they intend to incorporate that scheme under the measure in question. Consequently, that scheme will temporarily be in line with the Temporary Framework, provided the Commission approves it as compatible State-aid that is in line with the Risk-Capital Guidelines.

The Austrian authorities pointed out that incorporating this planned scheme into the measure in question does by no means prejudice the further process and the result of the Commission's ongoing assessment of State aid case N 554/2008.

- (7) The measure in question allows that the following modifications may be applied under the two risk-capital schemes concerned:
  - temporarily lowering the minimum private investor participation at the level of the investment in SMEs, from 50 % in the initially approved aid schemes down to 30 %;
  - temporarily raising the tranche of finance allowed under the schemes, which is 1.5 million EUR at most, to 2.5 million EUR at most.
- (8) The Austrian authorities confirmed that all other elements of the schemes listed above remain unchanged.

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<sup>2</sup> OJ C 288, 30.11.2007, p.3.

<sup>3</sup> OJ C 194, 18.8.2006, p. 2.

- (9) The Austrian authorities further confirmed that
- Cumulation of risk-capital aid under the measure in question with *de minimis* aid<sup>4</sup> in respect of the same eligible costs will be excluded;
  - the amount of *de minimis* aid received from 1 January 2008 must be deducted from the amount of aid granted for the same purpose under the notified measure;
  - the cumulation rules set forth in the Risk-Capital Guidelines will apply to the notified measure.
- (10) The Austrian authorities committed to comply with the reporting obligations laid down in Point 6 of the Framework.

## **2.2. Legal Basis, Duration, Budget**

- (11) The legal base of the notified measure will be:
- As regards the approved State-aid scheme N 160/2007: *Konjunkturbelebungs-gesetz 2008* (Economic Stimulus Act 2008) and *KMU-Förderungsgesetz* (SME-promotion Act);
  - As regards the notified State-aid scheme N 554/2008: *Risikokapitalmaßnahmen im Rahmen der Richtlinie für die Haftungsübernahme in der Tourismus- und Freizeitwirtschaft*
- (12) A reference to the present Decision will be introduced into to the granting provisions of the two aid schemes concerned.
- (13) As regards the approved State-aid scheme N 160/2007, the measure in question will be applicable from the date of its approval by the Commission, and until 31 December 2010. As regards the notified State-aid scheme N 554/2008, the measure in question will be applicable from the date of approval, under the Risk-Capital Guidelines, of that scheme. After 31 December 2010, the temporary modifications described above, in point 2.1, of the aid schemes encompassed by the notified measure will expire and these schemes will apply as initially approved.
- (14) Based on preliminary estimates, the Austrian authorities expect that EUR 25 million will be disbursed on the basis of the notified measure in 2009 and 2010.

## **3. ASSESSMENT OF THE AID**

### **3.1. Existence of aid**

- (15) The assessment of the existence of aid, done by the Commission in the decision approving Risk-capital scheme *Eigenkapitalgarantien*, State-aid case N160/2007, remains unchanged.
- (16) The pending aid scheme *Risikokapitalmaßnahmen im Rahmen der Richtlinie "Übernahme von Haftungen für die Tourismus- und Freizeitwirtschaft 2007 - 2013"*,

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<sup>4</sup> Commission Regulation (EC) No 1998/2006 of 15. December 2006 on the application of Articles 87 and 88 of the Treaty on *de minimis* aid; OJ L 379, 28.12.2006.

State-aid case N 554/2008, will be incorporated in the notified measure, however only after the Commission has decided that it is compatible with the Risk-Capital Guidelines, and therefore with the common market, pursuant to Article 87(3)(c) of the EC Treaty.

### **3.2. Legality of the aid**

- (17) By notifying the modifications to the aid schemes before implementing those modifications, the Austrian authorities fulfilled their obligations pursuant to Article 88(3) of the EC Treaty.

### **3.3. Compatibility of the aid**

- (18) The Commission has assessed the compatibility of the measure in question with the common market in the light of the Temporary Framework.
- (19) The Commission notes that Austria notified the overall framework measure, *Rahmenregelung für Beihilfemassnahmen zur Bekämpfung der aktuellen Finanz- und Wirtschaftskrise*, of which the measure in question is one specific aid measures, as falling under the Temporary Framework and that it is intended to counter the present financial and economic crisis in Austria.
- (20) Further, pursuant to point 4.6.2 of the Temporary Framework, the Commission considers appropriate to temporarily raise the safe-harbour threshold for risk capital investments to meet the increased equity gap and to temporarily lower the percentage of minimum private investor participation to 30 % also in the case of measures targeting SMEs in non-assisted areas. Aid under the schemes to be modified by the measure in question will be risk-capital aid and is intended to counter the negative effect on the risk capital market for early growth SMEs, by facilitating the availability of risk capital. The proposed temporary modifications are within the limits set forth by the Temporary Framework, as will be demonstrated below, recitals (23) and (24).
- (21) Hence, the proposed amendments are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Austria. Therefore, and provided all the conditions set forth in the Temporary Framework are met, which is to be assessed hereunder, Section 4.1 is complied with.
- (22) First of all, the measure in question will only apply to State-aid schemes that have been, or will be, approved under the Risk-Capital Guidelines. Hence, pursuant to Point 4.6.2 of the Framework, the notified measure is in the ambit of the Temporary Framework.
- (23) The notified temporary raise of the tranches of finance allowed under the scheme, from 1.5 million EUR at most to 2.5 million EUR at most, is in line with Point 4.6.2 (a) of the Temporary Framework.
- (24) The notified temporary reduction of the minimum private investor participation at the level of the investment in SMEs, from 50 % in the initially approved aid schemes down to 30 %, is in line with Point 4.6.2 (b) of the Temporary Framework.
- (25) The duration of the notified measure will end on 31 December 2010 and is therefore in line with the duration allowed for the modifications in question, as set forth in Points 4.6.2 (a) and (b) of the Temporary Framework.
- (26) The Austrian authorities will comply with the cumulation requirements stipulated by Point 4.7 of the Temporary Framework.

- (27) The Austrian authorities will comply with the reporting and monitoring rules pursuant to Point 6 of the Framework.

### **3.4. Conclusion**

- (28) Based on above considerations, the Commission concludes that the notified modifications to the schemes mentioned above in paragraph (5) fulfil all the requirements laid down the Temporary Framework.

## **4. DECISION**

- (29) As regards the approved State-aid scheme N 160/2007, the Commission considers the temporary modifications provided for under the measure in question as compatible with the EC Treaty on the basis of Article 87(3)(b) and has accordingly decided not to raise objections to the implementation of the measure in question..
- (30) Insofar as the Commission will approve aid scheme N 554/2008 as a compatible aid scheme under the Risk-Capital Guidelines, the above conclusion will apply to that schemes as well.
- (31) The Commission reminds the Austrian authorities of their obligations to submit annual reports on the implementation of the aid scheme and to maintain detailed records regarding the granting of aid and containing all information necessary to establish that the necessary conditions have been observed for 10 years and provide them to the Commission upon request.
- (32) The Commission further reminds the Austrian authorities that, in accordance with Article 88(3) of the EC Treaty, all plans to refinance, alter or change the aid scheme, apart from the automatic expiry of the modification of the scheme, have to be notified to the Commission.

Yours faithfully,  
For the Commission

*Neelie KROES*  
Member of the Commission