EUROPEAN COMMISSION

Brussels, 23.08.2010
C(2010)5880 final

Subject: **State Aid N 321/2010 – Slovenia**
Third prolongation of the Slovenian liquidity scheme for the financial sector

Sir,

I. PROCEDURE

1. On 16 July 2010 Slovenia notified the third prolongation of the liquidity scheme until 31 December 2010.
2. The original scheme was approved by the Commission on 20 March 2009[1]. The first prolongation of the scheme until 19 April 2010 was adopted on 19 October 2009[2]. The second prolongation until 30 June 2010 was approved on 15 April 2010[3].

II. DESCRIPTION

The Scheme

3. In response to the ongoing exceptional turbulences in world financial markets, Slovenia brought forward a package of measures designed to restore stability to the financial system and to remedy a serious disturbance to the Slovenian economy. The current measure concerns the liquidity scheme, which has the objective to provide short-and medium-term loans to financial institutions incorporated in Slovenia.
4. The Slovenian authorities seek to prolong the entry window of the existing scheme until 31 December 2010.

[1] State aid N 637/2008, Official Journal C 143, 24.06.2009.
[2] State aid N 510/2009, Official Journal C 313, 22.12.2009.
[3] State aid N 113/2010, Official Journal C 119, 07.05.2010.

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5. Pursuant to point 27 of the Commission decision of 20 March 2009, Slovenia has also submitted the report on the operation of the liquidity scheme. According to the information provided, no loans were approved under the liquidity scheme so far and no requests for such loans were received by the authorities.

III. POSITION OF SLOVENIA

6. In line with the original decision the Slovenian authorities claim that the liquidity scheme is compatible with the internal market because it is still necessary to remedy a serious disturbance in the Slovenian economy pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU)[4].

7. According to the Slovenian authorities the situation on the financial markets is improving, but markets are still volatile. In this environment it is important to keep the liquidity scheme in place, as a preventive measure, to restore market confidence.

8. Slovenia undertakes to maintain commitments made since the introduction of the liquidity scheme.

9. In addition, Slovenia undertakes to adjust the pricing formula[5] of the loans upwards, as from the current decision, by
   - 20 basis points for banks with a rating of A+ or A[6],
   - 30 basis points for banks rated A-[7], and
   - 40 basis points for banks rated below A-. Banks without a rating will be considered to belong to the category of banks with a BBB rating[8].

10. Furthermore, Slovenia undertakes to present a viability review for any financial institution that is granted liquidity support on new or renewed liabilities as from the current decision for which at the time of the granting of new liquidity support the total outstanding liabilities (including liquidity support accorded before the current decision) exceed 5% of total liabilities and EUR 500 million.

11. The viability review will be communicated to the Commission within three months of the granting of loans and will comply with the principles set out in the Restructuring Communication[9]. In particular, it will cover the solidity of the funding capacity of the bank concerned; where necessary and in any event where requested by the Commission in case of doubt, a liquidity stress test will be carried out. No separate viability review has to be presented for banks that are already in restructuring or obliged to present a restructuring plan or subject to a pending viability review at the time new liquidity support is granted.

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[4] With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the Treaty on the Functioning of the European Union. The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate.

[5] Further information on the pricing in the recital of 13-18 of the original decision, Official Journal C 143, 24.06.2009.

[6] Or A1 and A2 depending on the rating system employed.

[7] Or A3 depending on the rating system employed.

[8] In the case of divergent assessments by different rating agencies the relevant rating for the calculation of the fee increase should be the higher rating. The material time for the rating in the determination of the fee is the day on which the loan is granted in relation to a specific bond issuance by the beneficiary.

[9] OJ C 195, 19.8.2009, p. 11, point 8 in conjunction with section 2.

12. In addition to the existing commitments concerning reporting obligations, Slovenia undertakes to submit to the Commission a concise mid-term review on the operation of the liquidity scheme by 15 October 2010 at the latest.

13. Slovenia accepts exceptionally that the decision on the prolongation of the scheme be adopted in English.

14. A letter from Banka Slovenije (the Bank of Slovenia) confirms that the notified measure is necessary to ensure financial stability.

IV. ASSESSMENT

15. In its decision of 20 March 2009, the Commission concluded that the liquidity scheme constitutes State aid within the meaning of Article 107(1) TFEU. However it found that the measures were compatible with the internal market under Article 107(3)(b) TFEU, because they were apt to remedy a serious distortion of the Slovenian economy. To this end, the Commission had assessed the appropriateness, necessity and proportionality of the measure.

16. Although access to funding for banks has gradually improved in most funding markets over the past year and is no longer a systematic and generalised problem, markets have not yet fully returned to entirely normal functioning. Against this background and taking into account the residual fragility of the recovery process and the possibility of setbacks in that process, the continuation of a liquidity scheme can be deemed necessary to ensure financial stability as confirmed by the Bank of Slovenia. The Commission therefore considers that the prolongation of the scheme until 31 December 2010 is appropriate and necessary to remedy a serious disturbance of the Slovenian economy.

17. In assessing the request for the prolongation of the liquidity scheme, the Commission has to balance its positive effects for financial stability with the distortions of competition and the delay in the return to a normal functioning of the financial markets that the prolongation entails. Liquidity schemes should contain minimum exit incentives, and a gradual alignment to market conditions should take place in order to minimise negative spill-over effects on competitors and other Member States.

18. Within this context, the Commission notes positively that Slovenia undertakes to adjust the pricing formula of the scheme as from the current decision, and that the resulting fees are higher than the new conditions set by the Commission[10].

19. Furthermore, the Commission welcomes that Slovenia undertakes to present a viability review for any bank that is granted liquidity support on new or renewed liabilities as from the current decision for which at the time of the granting of new liquidity support the total outstanding liabilities (including liquidity support accorded before the current decision) exceed 5% of total liabilities and EUR 500 million.

20. The Commission also welcomes that Slovenia undertakes to submit a concise mid-term review on the operation of the liquidity scheme by 15 October 2010 at the latest.

21. As regards the combination of this liquidity scheme with other aid measures, as indicated in the Annex to the Restructuring Communication[11], any restructuring plan should contain all State aid received as individual aid or under a scheme during the restructuring period and all such aid needs to be justified as satisfying all criteria prescribed by the Restructuring Communication (i.e. return to viability, own contribution by the beneficiary and limitation of competition distortion). Accordingly,

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[10] http://ec.europa.eu/competition/state_aid/studies_reports/phase_out_bank_guarantees.pdf.

[11] Official Journal C 195, 19.08.2009

once a Member State is under an obligation to submit a restructuring plan for a certain aid beneficiary, the Commission needs to take a view in its final decision as to whether any aid granted during the restructuring period satisfies the criteria required for the authorisation of restructuring aid. To this end an individual *ex ante* notification is necessary.

22. Furthermore, the Commission recalls that based on point 16 of the Restructuring Communication, if aid not initially foreseen in a notified restructuring plan is necessary for the restoration of viability, this additional aid cannot be granted under an approved scheme but needs to be subject to individual *ex ante* notification and any such further aid will be taken into account in the Commission's final decision on that bank.

V. DECISION

The Commission concludes that the notified prolongation of Slovenian liquidity scheme should be analysed on the same basis as its previous assessment in the decision of 20 March 2009 in State aid case N 637/2008, 19 October 2009 in State aid case N 510/2009 and 15 April 2010 in State aid case N 113/2010, and that the scheme is compatible with the internal market. The Commission has accordingly decided not to raise objections.

The Commission would recall that, according to the commitment of the Slovenian authorities, the measure is limited in duration until 31 December 2010 and any extension must be notified to the Commission.

The Commission notes that Slovenia accepts that exceptionally the decision is 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/community_law/state_aids/state_aids_texts_en.htm.

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
Rue Joseph II, 70
B-1049 Brussels
Fax No: +32-2-296 12 42

Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-president of the Commission