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PUBLIC VERSION

WORKING LANGUAGE

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Subject: State aid N 425/2010 – Italy
Re-introduction of the Italian Recapitalisation Scheme

Sir,

I. PROCEDURE

1. On 1 October 2010 Italy notified a request to re-introduce its recapitalisation scheme for banks until 31 December 2010. The original measure was approved on 23 December 2008 under State aid case N 648/2008[1]. An amendment to the original scheme was approved on 22 February 2009 under State aid case N 97/2009[2]. On 6 October 2009 the Commission approved the prolongation of the scheme until 31 December 2009 under State aid case N 466/2009[3].

2. The legal basis for the Italian recapitalisation scheme is Decree Law n. 125, article 2.1 of 5 August 2010, published in the Italian Official Journal n. 182 of 6 August 2010.

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[1] Commission decision C(2008) 8998 in OJ C88, 17.04.2009, p. 3.
[2] Commission decision C(2009) 1288 in OJ C88, 17.04.2009, p.4.
[3] Commission decision C(2009) 1288 in OJ C284, 25.11.2009, p.14 .

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II. DESCRIPTION

1. The objective of the Scheme

3. The objective of the Scheme is to strengthen financial stability by recapitalising credit institutions in order to increase their creditworthiness and to allow the beneficiaries to maintain a significant level of financing to the real economy.

2. Description of the Scheme approved by Commission

4. In response to the exceptional turbulence in global financial markets, Italy put in place a recapitalisation scheme designed to restore stability of the financial system and to remedy a serious disturbance in the economy of Italy.
5. Institutions eligible to participate in the recapitalisation are credit institutions, i.e., all banks incorporated under Italian law (subsidiaries of foreign banks included) and/or holding companies of Italian banking groups, provided that their shares are listed on regulated market.
6. Under the Scheme, notes are issued by the banks and subscribed by the Ministry of Economy and Finance (MEF), which are "special bonds" classified, from a regulatory point of view, as Core Tier 1 instruments. The Scheme establishes for each beneficiary a limit to the capital injection at 2% of the bank's risk weighted assets.
7. In addition for each bank requesting the MEF to participate in specific operations, Banca d'Italia will assess the solvency and the current and prospective capital adequacy of the issuing bank.
8. All other conditions of the Scheme (e.g. pricing, reporting obligations, etc) as approved by the Commission decisions in State aid cases N 648/2008, N 97/2009 and N 466/2009 remain unchanged and continue to apply entirely.

3. Operation of the Scheme

9. According to the Italian authorities, the scheme exhibited satisfactory performance in its implementation, providing a safety net that corresponds well to market needs and ensuring the provision of lending to the real economy. Four institutions have been recapitalised under the scheme: Gruppo Banco Popolare (EUR 1.45 billion on 31 July 2009); Gruppo Banca Popolare Milano (EUR 500 million on 4 December 2009); Gruppo Credito Valtellinese (EUR 200 million on 30 December 2009); Gruppo Montepaschi di Siena (EUR 1.9 billion on 30 December 2009).

4. Description of the proposed re-introduction of the Scheme

10. The scheme expired on 31 December 2009. The Italian authorities request for the Scheme to be reintroduced and to remain in place until 31 December 2010.

III. POSITION OF ITALY

11. In line with the previous Decisions on the Scheme, the Italian authorities accept that the re-introduced Scheme contains State aid elements within the meaning of Article 107(1) TFEU[4].

12. The Italian authorities note that banks' access to market funding is improving. At the same time financial market conditions are still affected by the international financial crisis. For that reason, increasing confidence among intermediaries is crucial, in order to allow Italian credit institutions to maintain their support to the financing of the economy. Thus, it is necessary to re-introduce the scheme until the end of December 2010.

13. A letter sent by Banca d'Italia dated 28 September 2010 confirms the necessity to have the scheme in place until 31 December 2010 in the light -inter alia- of recommendations stated in the joint press release of the European Commission, Committee of European Banking Supervisors (CEBS) and European Central Bank regarding the EU-wide stress testing exercise[5] which invite banks to reinforce capital where necessary also through public support.

14. According to the Italian authorities, the re-introduction of the scheme is the response to the results of the CEBS stress testing exercise. Italy agreed with the other Member States and the European Commission on the necessity to put in place or to maintain national measures aimed at potentially supporting banks involved in the CEBS stress testing exercise and at preserving confidence in the financial markets. According to the Italian authorities, there is no immediate requirement for recapitalisation but the maintenance of market confidence necessitates having a recapitalisation scheme in place.

15. Italy maintains the commitments made in the context of the original authorisation of the Scheme and the prolongation, and confirms that all other conditions as reflected in the Commission decisions in State aid cases N 648/2008, N 97/2009 and N 466/2009 remain unchanged and continue to apply.

IV. ASSESSMENT

1. State aid character of the re-introduced Scheme

16. As set out in 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.

17. The Commission agrees with the position of Italy that the re-introduced scheme for eligible institutions constitutes aid to the institutions concerned pursuant to Article 107(1) EC.

18. The re-introduction of the recapitalisation scheme may enable beneficiaries to secure the necessary capital on more favourable terms than otherwise be possible in light of

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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 ("TFEU"). 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] http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/10/356.

the prevailing conditions in the financial markets; This gives an economic advantage to the beneficiaries and strengthens the position of these beneficiaries compared to that of their competitors in Italy and in other Member States and must therefore be regarded as distorting competition and affecting trade between Member States. The advantage is selective since it only benefits the beneficiaries of the scheme and is provided through State resources.

19. The Commission is convinced that in the current circumstances the capital injection would not have been provided by a market economy investor on a comparable scale and on similar terms in favour of participating banks.

2. Compatibility of the re-introduced Scheme

20. In the previous Decisions on the Scheme, the Commission considered the notified measure compatible with the internal market under Article 107(3)(b) TFEU.

21. The re-introduction of the Scheme does not contain any modification of the measure previously approved. The Commission notes that Italy confirms that all the commitments made in relation to the Scheme will continue to apply entirely.

22. The Commission considers that the exceptional circumstances at the origin of the notified Scheme persist and therefore recognises the need for the re-introduction of the Scheme. The letter from Banca d'Italia confirms that necessity.

23. The Scheme was not available from January 2010 until October 2010. However, the Commission considers that the Scheme could function as a safety net in order to allow Italian credit institutions to maintain their support to the financing of the economy. Therefore, the Commission considers that the re-introduction of the Scheme is appropriate and necessary to remedy the serious disturbance of the Italian economy.

24. The Commission notes that the re-introduction is limited in time (until 31 December 2010) which will limit the potential distortion of competition. Any potential further prolongation would require the Commission's approval and would have to be based on a review of the Scheme's effectiveness based on the six-monthly report on the operation of the Scheme.

25. The Commission therefore does not object to the re-introduction of the Scheme until 31 December 2010.

V. DECISION

The Commission has decided not to raise objections against the re-introduction of the Scheme until 31 December 2010, since it fulfils the conditions to be considered compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

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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