EUROPEAN COMMISSION

Brussels, 19.7.2013
C(2013) 4659 final

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 […].		PUBLIC VERSION This document is made available for information purposes only.

Subject: State aid SA.32745 (2011/MC) – Austria
State support for the run-off of Kommunalkredit Austria AG

Sir,

I. PROCEDURE

(1) By decision of 31 March 2011 the Commission approved a package of State aid measures in favour of Kommunalkredit Austria AG in case SA.32745 ("*the Restructuring Decision*")[1]. Those aid measures are described in detail in recitals 19 to 32 of that decision.

(2) The Commission's approval was given in light of a number of commitments made by Austria[2]. A key commitment was the privatisation of Kommunalkredit Austria AG's viable part by the 31 December 2012.[3]

[1] Commission Decision of 31 March 2011 in case SA.32745 (2011/NN), *Restructuring of Kommunalkredit*. OJ C 239, 17.8.2011, p. 2.

Seiner Exzellenz Herrn Bundesminister Dr. Michael SPINDELEGGER
Bundesministerium für europäische und internationale Angelegenheiten
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(3) On 11 December 2012, Austria informed the Commission that it would not be possible to privatise KA within the committed timeframe and requested an extension of the deadline by three months until 31 March 2013 (for signing).

(4) On 18 December 2012, Austria submitted an update of the sales procedure.

(5) In a telephone conference on 29 January 2013 the Austrian authorities informed the Commission of the state of play of the privatisation process.

(6) On 22 March 2013 Austria informed the Commission that no offers had been received that would make possible a sale without additional State aid. Discussions followed in a phone conference on 11 April 2013 and in a meeting on 14 April 2013.

(7) On 16 May 2013 Austria notified to the Commission its intention to put the Bank in run-off and requested that the Restructuring Decision be amended accordingly. On 13 June 2013, Austria submitted a draft run-off plan, which was presented and discussed in a meeting on 20 June 2013. On 24 June and 1, 4 and 5 July 2013, Austria submitted revised versions of the plan.

(8) On 15 July 2013, Austria notified the final run-off plan for KA and a list of commitments.

(9) On 24 June 2013, Austria informed the Commission that it exceptionally accepts that this decision be adopted in the English language for reasons of urgency.

II. FACTS

II.1. The beneficiary

(10) Kommunalkredit Austria AG is the "good bank" which was created in 2009, when the operations of Kommunalkredit Austria AG were split into "strategic" and "non-strategic" activities. The split was implemented through a transfer of the strategic assets to a separate entity, which became the new Kommunalkredit Austria AG ("*KA*" or "the Bank"). The non-strategic assets remained in the existing bank (renamed *Kommunalkredit Finanz AG*, the bad bank). What used to be the original entity Kommunalkredit Austria AG before the split in 2009 ceased to exist[4]

(11) KA is organised as a joint stock company and has its registered offices in Vienna. The Republic of Austria holds 99.78% of the shares. The remaining 0.22% of shares are held by the Austrian Association of Municipalities (*"Österreichischer Gemeindebund"*).

(12) KA focused its business activities on the financing of the public sector with a special emphasis on the financing of projects serving social infrastructure, energy, as well as environment and transport. KA does not have any retail business. The financing activities

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[2] As described in recital 34 of the Restructuring Decision.

[3] For the purpose of this decision, Kommunalkredit's viable part, i.e. the "good bank" that emanated from the split in 2009, is referred to as "*KA*" or "*the Bank*".

[4] The details on the beneficiary and the events leading to the split are described in recitals (7) to (16) of the Restructuring Decision.

in the customer business have been significantly restricted compared to the previous volume of operations of KA. In the period between 2010 and 2012, a total of EUR [1.0 - 3.0][*] billion in financing for local or infrastructure projects have been completed.

(13) As of 31 December 2012, KA had total assets of EUR 13.2 billion, of which EUR 9.2 billion loans. Its Tier 1 capital ratio stood at 12.3%. KA closed the business year 2012 with IFRS result after tax of EUR 18.2 million.

(14) KA's average headcount was 195 full time equivalents in 2012.

(15) KA has the following subsidiaries and participations:

	Name	**Place**	**Shareholding**
1	Kommunalkredit Public Consulting GmbH	Vienna	90%
2	Kommunalnet E-Government Solutions GmbH	Vienna	50%
3	Kommunalkredit Beteiligungs- und Immobilien GmbH	Vienna	100%
4	TrendMind IT Dienstleistungen GmbH	Vienna	100%
5	Kommunalleasing GmbH	Vienna	50%

(16) KA has built up a focused consulting capacity with respect to municipal projects. The consulting business is not part of the banking business subject to a banking licence. The consulting business of the KA group focusses on the areas of energy, environment, water supply and sanitation, transport and social infrastructure. For the purpose of providing the consulting services, the financial expertise of the Bank is combined with the technical competence of Kommunalkredit Public Consulting ("*KPC*"), a specialist provider of consulting services in the public infrastructure area for international organisations and financial institutions.

(17) The consulting services are therefore provided both by KA and KPC. KPC provides the technical expertise required in lending programmes and support schemes operated e.g. by the European Bank for Reconstruction and Development (EBRD), European Investment Bank (EIB), World Bank, etc., and mostly obtains its mandates through public tender processes.

(18) Those consulting and support scheme management activities are expected to generate steady income. Table 1 sets out the projected fee income from the consulting services, separately for KA and KPC as well as the net compensation for the support scheme management by KPC until 2018.

[*] Confidential information.

Table 1 – Consulting/support scheme management until 2018, TEUR

Fee income consulting / support scheme management	2013	2014	2015	2016	2017	2018
Fee income KA consulting	[1,300 - 1,900]	[1,700 - 2,500]	[1,700 - 3,800]	[2,200 - 4,200]	[2,900 - 5,300]	[3,200 - 5,700]
Fee income KPC consulting	[700 - 1,500]	[800 - 1,700]	[1,100 - 1,900]	[1,200 - 2,000]	[1,100 - 2,300]	[1,500 - 2,100]
KPC support scheme management (net)*	[300 - 500]	[300 - 500]	[300 - 500]	[300 - 500]	[300 - 500]	[300 - 500]
of which support scheme cost	*[-8,000 - -14,200]*	*[-11,300 - -15,100]*	*[-8,900 - -16,800]*	*[-9,600 - -14,400]*	*[-8,200 - -18,300]*	*[-9,600 - -16,600]*
of which support scheme cost refund + margin	*[10,500 - 16,600]*	*[10,000 - 14,600]*	*[10,700 - 17,900]*	*[8,000 - 17,000]*	*[10,600 - 18,000]*	*[11,500 - 16,500]*

*) Under IFRS, support scheme revenues and costs are stated on a gross basis; under UGB on a net basis

Source: Austrian authorities
(UGB Unternehmensgesetzbuch, the Austrian Commercial Code

II.2. The privatisation commitment and the sales process

(19) The Restructuring Decision was approved subject to the implementation of several commitments. Section B, point 1 of the list of commitments[5] sets out that "*in order to avoid undue distortions of competition, Austria commits to sell all the KA Neu[6] shares held by Austria in an open, transparent and non-discriminatory procedure. Austria commits to enter into a final binding sale and purchase agreement not later than 31 December 2012 and a closing of the sale not later than 30 June 2013. If Austria has not entered into a binding sale and purchase agreement by 31 December 2012, it shall grant the Divestiture Trustee an exclusive mandate to carry out the Privatization* […]."

(20) Austria launched the privatisation tender on 26 July 2012. The tender deadline ended on 12 November 2012; the sales process led to […] offers, […] of which […] binding. As the submitted bids were subject to conditions and therefore not fully compliant with the conditions of the tender, Austria extended the deadline until 3 December 2012 to allow for a further refinement of the submitted bids.

(21) On 11 December 2012 Austria requested from the Commission a prolongation of the divestiture deadline until 31 March 2013 to be able to conclude the negotiations. Austria argued that the negotiations were well advanced and that they were confident that they would reach an agreement by 31 March 2013.

(22) The Commission invited Austria to reflect on alternatives for KA in parallel to the continuation of the sales process. In addition, Austria undertook to submit a run-off plan to the Commission in case the privatisation would not be achieved by 31 March 2013.

(23) On 22 March 2013, Austria informed the Commission that neither of the […] selected offers satisfied the necessary criteria; in particular, […] offer […] binding, and […] offers would have required new State aid and were therefore to be rejected. Against the background of the failed privatisation, Austria suggested extending the privatisation deadline by a sufficiently long period, during which the balance sheet and the volume of new business would be reduced.

5 See Annex 1 to the Restructuring Decision.

6 In the Restructuring Decision, the viable "good bank" was referred to as "KA Neu".

(24) The Commission responded to Austria that it should either implement the sale commitments of the Restructuring Decision by appointing a divestiture trustee without further delay or consider putting the Bank in immediate run-off.

II.3. The run-off plan

(25) On 16 May 2013, Austria notified to the Commission its intention to put KA in run-off and stop new business on the asset side. On 15 July 2013, Austria submitted the final run-off plan which sets out a long-term and loss-minimising run-off strategy for KA. The main elements are described below:

- Discontinuation of new business on the asset side;
- Period for orderly run-off;
- Run-off of the assets and sale options; and
- Refinancing and capital planning.

Discontinuation of new business on the asset side

(26) KA will stop new business on the asset side as of the date of this Decision. That cessation excludes financing which was already committed before that date or is currently in the bidding process. It amounts to a total of approximately EUR [300 – 600] million. Those transactions will be paid out predominantly in the years 2013 to 2015.

(27) Moreover, the definition of new business excludes the following:

- Consulting services which do not represent banking business requiring a banking license.
- Use of securities for the purpose of liquidity risk management, e.g. in the context of cover pool management ("*Deckungsstockmanagement*") and compliance with liquidity ratios as the liquidity coverage ratio under Basel III.

(28) KA may also carry out the restructuring of existing positions as part of the balance sheet management, i.e. changes of terms (including re-pricing, margin increases and changes of maturities), and the value-preserving sale of positions or portfolios where they lead to an accelerated run-off of the existing portfolio and do not result in a long-term increase of the required run-off aid as well as in total exposure.

(29) KA will not carry out new economic activities in the course of its run-off, apart from the activities necessary to facilitate its run-off and the consulting services.

Period for orderly run-off

(30) Based on the run-off plan, the orderly run-off will be substantially completed by 31 December 2040[7], whereas in 2020 50% and in 2025 70% of the portfolio (loans and securities) reach maturity (see Table 2).

[7] Some minor assets will expire only in 2071.

Table 2 – Development of assets / maturity profile until 2040 (in EUR million)

Assets	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
Loans	[6,500 - 10,300]	[4,800 - 10,000]	[5,100 - 9,800]	[5,700 - 8,200]	[3,600 - 7,900]	[4,200 - 7,600]	[4,300 - 6,300]	[3,700 - 5,200]	[2,500 - 4,700]	[2,900 - 5,200]	[3,000 - 4,600]	[2,100 - 4,300]	[2,100 - 3,100]	[1,600 - 3,300]
Committed disbursements	[100 - 200]	[200 - 400]	[300 - 500]	[300 - 500]	[200 - 400]	[200 - 400]	[200 - 300]	[200 - 300]	[100 - 200]	[110 - 180]	[80 - 120]	[40 - 60]	[10 - 30]	[0 - 10]
Securities	[800 - 1,600]	[800 - 1,300]	[800 - 1,000]	[500 - 1,100]	[500 - 1,000]	[500 - 800]	[500 - 700]	[500 - 800]	[400 - 700]	[400 - 700]	[300 - 500]	[300 - 500]	[300 - 500]	[300 - 500]
Collateral	[800 - 1,100]	[700 - 1,100]	[600 - 1,000]	[600 - 900]	[500 - 900]	[400 - 800]	[300 - 600]	[300 - 600]	[300 - 600]	[300 - 500]	[300 - 500]	[200 - 400]	[200 - 400]	[200 - 300]
Liquidity reserve	[400 - 900]	[200 - 300]	[200 - 400]	[300 - 400]	[200 - 400]	[200 - 400]	[200 - 300]	[200 - 400]	[200 - 300]	[200 - 400]	[200 - 300]	[300 - 400]	[300 - 400]	[200 - 300]
Total assets	**[7,100 - 16,100]**	**[6,300 - 13,100]**	**[7,500 - 10,900]**	**[7,400 - 10,900]**	**[6,800 - 10,700]**	**[4,800 - 8,500]**	**[4,200 - 9,000]**	**[4,900 - 8,500]**	**[3,900 - 6,400]**	**[3,500 - 6,100]**	**[2,900 - 5,000]**	**[2,800 - 5,400]**	**[2,700 - 4,800]**	**[3,000 - 4,000]**

Liabilities and equity	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
Equity	[100 - 300]	[200 - 300]	[200 - 300]	[200 - 200]	[200 - 300]	[200 - 300]	[200 - 300]	[100 - 300]	[200 - 300]	[200 - 300]	[200 - 300]	[200 - 300]	[200 - 300]	[200 - 300]
Participation capital	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]
Subordinated liabilities	[50 - 90]	[60 - 80]	[60 - 90]	[40 - 80]	[50 - 100]	[60 - 100]	[40 - 100]	[50 - 80]	[40 - 80]	[40 - 50]	[30 - 50]	[30 - 60]	[30 - 50]	[40 - 50]
Existing own issues	[4,500 - 7,500]	[3,400 - 7,000]	[2,800 - 4,400]	[2,400 - 3,100]	[2,000 - 3,100]	[1,700 - 2,900]	[1,300 - 2,400]	[1,500 - 2,400]	[1,200 - 1,900]	[1,100 - 1,800]	[1,000 - 1,600]	[900 - 1,500]	[1,000 - 1,400]	[700 - 900]
ECB LTRO	1.350	1.350	0	0	0	0	0	0	0	0	0	0	0	0
Required new funding	**[2,700 - 4,200]**	**[2,200 - 4,500]**	**[3,900 - 6,100]**	**[4,700 - 6,900]**	**[3,800 - 6,200]**	**[3,800 - 5,600]**	**[3,300 - 5,100]**	**[3,400 - 5,300]**	**[2,500 - 4,300]**	**[2,200 - 4,000]**	**[2,400 - 3,100]**	**[1,900 - 3,400]**	**[1,700 - 3,000]**	**[1,900 - 3,000]**
Total liabilities and equity	**[7,100 - 16,100]**	**[6,300 - 13,100]**	**[7,500 - 10,900]**	**[7,400 - 10,900]**	**[6,800 - 10,700]**	**[4,800 - 8,500]**	**[4,200 - 9,000]**	**[4,900 - 8,500]**	**[3,900 - 6,400]**	**[3,500 - 6,100]**	**[2,900 - 5,000]**	**[2,800 - 5,400]**	**[2,700 - 4,800]**	**[3,000 - 4,000]**

Assets	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**2034**	**2035**	**2036**	**2037**	**2038**	**2039**	**2040**
Loans	[1,900 - 2,900]	[1,400 - 3,200]	[1,400 - 2,500]	[1,100 - 2,000]	[1,200 - 2,200]	[900 - 1,600]	[600 - 1,500]	[700 - 1,300]	[400 - 900]	[100 - 200]	[70 - 130]	[60 - 120]	[50 - 100]	[50 - 80]
Committed disbursements	[0 - 10]	0	0	0	0	0	0	0	0	0	0	0	0	0
Securities	[200 - 500]	[400 - 600]	[300 - 500]	[200 - 600]	[300 - 500]	[200 - 500]	[300 - 500]	[300 - 500]	[200 - 400]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]
Collateral	[100 - 300]	[100 - 300]	[200 - 300]	[100 - 300]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[70 - 130]	[20 - 40]	[20 - 30]	[10 - 30]	[10 - 30]	[10 - 30]
Liquidity reserve	[200 - 400]	[200 - 300]	[200 - 300]	[100 - 300]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 100]	[100 - 300]	[200 - 300]	[200 - 400]	[200 - 400]	[200 - 400]
Total assets	**[2,600 - 4,800]**	**[1,800 - 4,200]**	**[1,500 - 3,300]**	**[2,000 - 3,700]**	**[1,300 - 2,900]**	**[1,200 - 2,400]**	**[1,200 - 2,600]**	**[1,200 - 2,100]**	**[900 - 1,600]**	**[300 - 700]**	**[400 - 700]**	**[400 - 700]**	**[400 - 700]**	**[400 - 600]**

Liabilities and equity	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**2034**	**2035**	**2036**	**2037**	**2038**	**2039**	**2040**
Equity	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]	[200 - 400]
Participation capital	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]	[100 - 200]
Subordinated liabilities	[20 - 50]	[30 - 60]	[30 - 60]	[30 - 60]	[30 - 60]	[30 - 50]	[30 - 70]	[30 - 60]	[40 - 60]	[30 - 70]	[10 - 30]	[10 - 30]	[20 - 30]	[10 - 30]
Existing own issues	[500 - 1,000]	[500 - 1,000]	[300 - 600]	[200 - 500]	[200 - 400]	[100 - 200]	[100 - 200]	[100 - 200]	[50 - 90]	[50 - 100]	[50 - 90]	[60 - 110]	[60 - 110]	[50 - 130]
ECB LTRO	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Required new funding	**[1,700 - 2,800]**	**[1,000 - 2,200]**	**[1,400 - 2,500]**	**[1,300 - 1,900]**	**[800 - 2,000]**	**[1,000 - 1,800]**	**[600 - 1,500]**	**[800 - 1,500]**	**[500 - 900]**	**0**	**0**	**0**	**0**	**0**
Total liabilities and equity	**[2,600 - 4,800]**	**[1,800 - 4,200]**	**[1,500 - 3,300]**	**[2,000 - 3,700]**	**[1,300 - 2,900]**	**[1,200 - 2,400]**	**[1,200 - 2,600]**	**[1,200 - 2,100]**	**[900 - 1,600]**	**[300 - 700]**	**[400 - 700]**	**[400 - 700]**	**[400 - 700]**	**[400 - 600]**

Source: Austrian authorities

- Without potential fluctuations due to Fair Value- and FX-valuations;
- Run-off of collateral proportional to run-off of Portfolio;
- Run-off of assets as of 2040 not illustrated in detail; assumption that remaining Portfolio will be sold without a loss until 31 December 2040; legal final maturity 2071.

Run-off of the assets and sale options

(31) KA will gradually reduce its assets in a controlled way. The total assets as of 31 December 2012 amounted to EUR 13.2 billion and are comprised of loans, securities, collateral and liquidity reserves. The composition of the assets as of 31 December 2012 is presented in detail in Table 3.

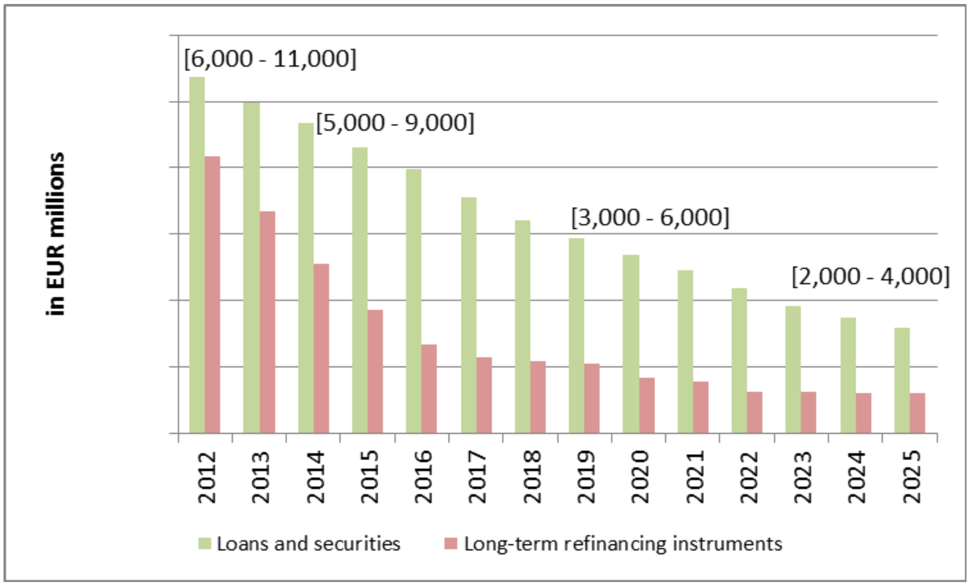
Table 3 – Value of assets as per 31 December 2012

Assets in EUR	**31.12.2012**
Loans	9,241,492,352
Securities	1,487,988,721
Debtor warrant claim*	1,136,606,999
Collateral	981,619,000
Liquidity reserve	393,518,600
Total assets	**13,241,225,673**

Source: Austrian authorities

(32) The assets will be realised according to their maturity. The run-off plan is therefore determined by the maturity of the individual assets (contractual maturity).

Graph 1 – Maturity profile of assets and liabilities



Source: Austrian authorities

(33) In addition, KA will explore the option of selling parts of KA's business or assets to accelerate the run-off and ensure that the Bank itself will bear the costs of the run-off to the greatest possible extent. Potential sales contracts for parts of the Bank will not cover more than […] of the current KA's total assets at the time of this decision. The sale(s) offer will be published in line with national requirements and the sales process will be organised in compliance with State aid rules, including an open and transparent tender process.

(34) Furthermore, KA will sell its subsidiaries […] by [5-10 years], or else run-off their activities as of […]. To that end, KA will not enter into new contracts which would impede the closure of business by […] of those subsidiaries.

(35) As regards the participations in […], KA will divest its stake […] by [5-10 years] or, if it fails to sell them, […].

Refinancing and capital planning

(36) Based on its capital and liquidity planning in the run-off scenario and according to its current planning, KA will be able to run-down its assets without further need for capital or liquidity support provided by the State. The long-term and loss-minimising run-down will maximise the remaining liquidity of KA and minimise the probability that the State has to inject capital. Proceeds from selling parts of the Bank will also contribute to financing the run-off.

(37) As regards *refinancing*, the planning does not foresee the necessity of refinancing support from the State (guarantees or the like) during the run-off period. KA aims at refinancing the legacy portfolio without State resources through covered bonds issuances, senior unsecured loans and customer deposits.

(38) In order to avoid further State support, KA will maintain its refinancing business to a limited extent. However, the activities of KA will be reduced to the refinancing of its assets to the extent to which they have not been run-down yet.

(39) According to the maturity profile of the liabilities, the yearly refinancing need for the existing assets ranges between EUR [2.7 – 4.2] billion in 2013 and EUR [500 – 900] million in 2035, with a peak of EUR [4.6 – 6.9] billion in 2016 (see Table 2). From 2036 onwards, there will no longer be an additional refinancing need.

(40) The current status of KA’s refinancing strategy regarding the liquidity planning as of 1 January 2013 is illustrated in Table 4.

Table 4 – Liquidity planning (based on current ratings)

Liquidity plan *(cumulative refinancing volume in EUR)*	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**
New funding / refinancing requirement	[2,700,000,000 - 4,200,000,000]	[2,200,000,000 - 4,500,000,000]	[3,900,000,000 - 6,100,000,000]	[4,700,000,000 - 6,900,000,000]	[3,800,000,000 - 6,200,000,000]	[3,800,000,000 - 5,600,000,000]
of which covered bonds	[400,000,000 - 600,000,000]	[800,000,000 - 1,200,000,000]	[1,100,000,000 - 1,800,000,000]	[1,800,000,000 - 2,500,000,000]	[1,700,000,000 - 2,900,000,000]	[1,500,000,000 - 2,700,000,000]
of which senior unsecured	[200,000,000 - 400,000,000]	[500,000,000 - 800,000,000]	[500,000,000 - 800,000,000]	[700,000,000 - 1,300,000,000]	[400,000,000 - 700,000,000]	[200,000,000 - 300,000,000]
of which replacement callable emissions	[200,000,000 - 300,000,000]	[100,000,000 - 200,000,000]	[100,000,000 - 200,000,000]	[100,000,000 - 300,000,000]	[100,000,000 - 300,000,000]	[200,000,000 - 200,000,000]
of which GC pooling / repo / money market	[700,000,000 - 1,100,000,000]	[300,000,000 - 500,000,000]	[300,000,000 - 700,000,000]	[300,000,000 - 600,000,000]	[300,000,000 - 500,000,000]	[300,000,000 - 500,000,000]
of which prolonged customer deposits	[600,000,000 - 1,300,000,000]	[800,000,000 - 1,300,000,000]	[600,000,000 - 1,200,000,000]	[600,000,000 - 1,300,000,000]	[500,000,000 - 1,000,000,000]	[600,000,000 - 900,000,000]
of which ECB	[200,000,000 - 400,000,000]	[300,000,000 - 500,000,000]	[1,100,000,000 - 2,300,000,000]	[800,000,000 - 1,800,000,000]	[600,000,000 - 1,200,000,000]	[500,000,000 - 1,100,000,000]
Existing funding instruments (own issues)	[5,700,000,000 - 8,300,000,000]	[3,100,000,000 - 6,300,000,000]	[3,200,000,000 - 4,300,000,000]	[1,800,000,000 - 3,300,000,000]	[1,700,000,000 - 2,800,000,000]	[1,600,000,000 - 2,800,000,000]
ECB 3-year LTRO	1.350.000.000	1.350.000.000	0	0	0	0
Total refinancing volume	**[8,700,000,000 - 14,700,000,000]**	**[8,200,000,000 - 12,000,000,000]**	**[8,200,000,000 - 10,500,000,000]**	**[5,700,000,000 - 11,000,000,000]**	**[6,300,000,000 - 8,500,000,000]**	**[4,900,000,000 - 8,000,000,000]**

Average margin in basis points (relative to 6-months-Euribor)						
Margin new funding	[…]	[…]	[…]	[…]	[…]	[…]
Margin covered bonds	[…]	[…]	[…]	[…]	[…]	[…]
Margin senior unsecured	[…]	[…]	[…]	[…]	[…]	[…]
Margin replacement callable emissions	[…]	[…]	[…]	[…]	[…]	[…]
Margin GC pooling / Repo / Money Market	[…]	[…]	[…]	[…]	[…]	[…]
Margin prolonged customer deposits	[…]	[…]	[…]	[…]	[…]	[…]
Margin ECB	[…]	[…]	[…]	[…]	[…]	[…]
Margin existing funding instruments	[…]	[…]	[…]	[…]	[…]	[…]
Margin ECB 3-year LTRO	[…]	[…]	[…]	[…]	[…]	[…]
Average margin total refinancing	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**	**[…]**

Source: Austrian authorities

(41) That refinancing strategy also sets out that KA will partly rely on customer deposits as a source of financing the run-off of the assets. Those deposits are not retail deposits but stem from institutional investors, municipalities and companies which are close to the public sector and who are existing customers of KA.

(42) Deposit taking will strictly serve the purpose of refinancing and is limited by the following criteria:

(i) KA will only take deposits from […] deposit customers, […];

(ii) The total stock of deposits will not exceed a cap of EUR [1.1 – 2.1] billion in 2015 and decrease over time to EUR [150 – 300] million in 2040 (the run-off is described in Table 5);

(iii) Deposits will be at market conditions, i.e. pricing will be in line with average market prices and KA will not be a price leader;

(iv) KA will not launch any advertising campaigns regarding deposits.

Table 5 – Maximum amount of deposits

Maximum amount of deposits in EUR m	2013 - 2015	2016 - 2020	2021 - 2025	2026 - 2030	2031 - 2035	2036 - 2040
Deposits	[1,100 - 2,100]	[800 - 1,600]	[600 - 1,200]	[400 - 900]	[200 - 700]	[150 - 300]

Source: Austrian authorities

(43) As regards the *capital planning*, KA's equity is sufficient to cover expected losses, according to the plan. In regulatory terms, as per 31 December 2012 KA's Tier 1 capital ratio amounts to 12.3% for Core Tier 1 and 17.3% for total capital.

(44) From Table 6 it can be seen that the capitalisation of KA is deemed sufficient to ensure an orderly run-off of KA without any further contribution of State capital.

Table 6 – Capital planning as of 2013 according to IFRS

IFRS financial ratios	Basel II 2013	Basel III -> 2014	2015	2016	2017	2018
Total assets	[11,900,000 - 14,300,000]	[9,700,000 - 14,000,000]	[9,900,000 - 13,500,000]	[7,800,000 - 12,900,000]	[8,200,000 - 12,000,000]	[5,800,000 - 10,000,000]
Risk-weighted assets Basel III	[1,200,000 - 2,500,000]	[1,700,000 - 3,100,000]	[1,700,000 - 2,600,000]	[1,300,000 - 2,500,000]	[1,300,000 - 2,000,000]	[1,300,000 - 2,200,000]
Common Equity Tier 1 Ratio	[8.0% - 16.0%]	[9.0% - 15.0%]	[8.0% - 14.0%]	[11.0% - 15.0%]	[8.0% - 17.0%]	[11.0% - 20.0%]
Total Capital Ratio	[11.0% - 20.0%]	[13.0% - 17.0%]	[13.0% - 20.0%]	[12.0% - 23.0%]	[13.0% - 24.0%]	[15.0% - 26.0%]
Leverage Ratio	[1.0% - 2.0%]	[2.0% - 3.0%]	[2.0% - 3.0%]	[2.0% - 3.0%]	[2.0% - 3.0%]	[2.0% - 3.0%]
Total Capital	[230,000 - 390,000]	[300,000 - 480,000]	[300,000 - 410,000]	[230,000 - 450,000]	[230,000 - 410,000]	[220,000 - 450,000]
Common Equity Tier 1	[180,000 - 350,000]	[200,000 - 310,000]	[160,000 - 310,000]	[220,000 - 270,000]	[190,000 - 340,000]	[140,000 - 290,000]
of which eligible participation capital (Tier 1)	*[110,000 - 190,000]*	*[80,000 - 120,000]*	*[70,000 - 130,000]*	*[60,000 - 110,000]*	*[50,000 - 90,000]*	*[40,000 - 70,000]*
Eligible Capital	[230,000 - 440,000]	[250,000 - 430,000]	[280,000 - 420,000]	[240,000 - 420,000]	[210,000 - 390,000]	[210,000 - 390,000]
Large exposure limit	[80,000 - 110,000]	[50,000 - 110,000]	[60,000 - 100,000]	[60,000 - 110,000]	[50,000 - 100,000]	[50,000 - 90,000]
IFRS equity excl. participation capital	[90,000 - 170,000]	[120,000 - 200,000]	[110,000 - 210,000]	[120,000 - 220,000]	[120,000 - 220,000]	[170,000 - 210,000]
of which AFS/CFH reserve	*[-40,000 - -60,000]*	*[-40,000 - -60,000]*	*[-30,000 - -60,000]*	*[-40,000 - -60,000]*	*[-30,000 - -60,000]*	*[-30,000 - -50,000]*

Source: Austrian authorities

II.4. The aid measures

(45) Based on the current run-off plan, Austria assumes that the orderly run-off can be successfully completed with funds from KA alone. It is therefore not anticipated that additional capital must be made available by the State or that government liquidity support is required for the purpose of the run-off.

(46) However, should the orderly run-off of KA require the supply of additional capital or the securing of liquidity, Austria will take appropriate steps in due time to allow for sufficient capital and liquidity until the end of the run-off period and minimise the further need for capital. In particular, Austria will ensure the refinancing of all assets, which cannot be refinanced in the market, until the end of the run-off period by either providing a facility or government guarantees for emissions.

(47) That contingent State support will never exceed the difference between the funding needs and the funding obtained by KA in conformity with the run-off plan and the respective commitment given by Austria, and in any event will not exceed the required new funding set out in Table 2 by more than 20% in any given year.

(48) The same principle applies to the capitalisation of the Bank. In the event that KA has a regulatory capital shortfall, the State will provide the minimum amount of capital needed so that KA complies again with the regulatory capital requirements. However, over the entire run-off period any such capital injection will not, in any event, exceed the equity and participation capital as set out in Table 2 by more than 50 % in any given year, provided that the resulting capital quota of KA is limited to the minimum Basel III capital requirements as they apply in each given year plus any buffer as may be required by the competent supervisor.

III. POSITION OF THE MEMBER STATE

(49) Austria submitted that all commitments given in the KA Restructuring Decision have been scrupulously respected so far, with the exception of the privatisation commitment.

(50) Austria argues that it did all in its power to also respect the privatisation commitment given in the Restructuring Decision. According to Austria, the privatisation process was launched early enough and was fully on track until mid-November 2012. However, due to the necessity of extending the deadline so that the tenderers could refine their bids, the process got delayed. The submitted bids were complex and required additional State support. Hence, the negotiations required substantial time and signing was no longer possible within the deadline laid down in the Restructuring Decision.

(51) According to Austria, appointing a divestiture trustee might not have led to a better outcome than that achieved in the tender procedure launched by Austria as a sale would only have been possible at a […] price. It might have damaged KA's ability to refinance itself, and might ultimately have led to the need for additional State aid. Austria also argued that the appointment of a divestiture trustee would have sent a negative signal about the Austrian financial market.

(52) Austria gives a number of commitments with regard to KA's run-off. Notably, Austria will ensure that KA stops new business on the asset side (no new lending) as of the date of this decision, does not start any new activities during run-off and respects limits on deposit taking. In addition, Austria undertakes to continue to respect a series of commitments given in the Restructuring Decision, if still appropriate during the run-off period. Those commitments refer, among other things, to restrictions on coupon payments, acquisitions and advertising. All commitments are described in detail in the Annex.

IV. ASSESSMENT

The run-off

(53) Recital (34)(b) and Section B of Annex 1 to the Restructuring Decision set out that KA would have to be privatised by 31 December 2012. That measure was intended to avoid undue distortions of competition brought about by the State aid granted to KA. As explained above, the privatisation failed and therefore Austria has decided to pursue an alternative strategy to the sale, i.e. the run-off of KA.

(54) The Restructuring Decision therefore needs to be amended to reflect the revised strategy for KA.

(55) The Commission acknowledges that the privatisation of KA, as committed in the Restructuring Decision, failed due to reasons that were beyond Austria's control. The offers received from interested bidders only concerned […]. Moreover, additional State aid would have been required to facilitate KA's sale. That was against the spirit of the Restructuring Decision recital (60) which set out the objective to "achieve the highest possible price", which should "adequately reflect the measures granted". The proceeds of the privatisation were meant as a claw-back of the State's initial investment. Since those objectives could not be met through the attempted privatisation, the Commission considers the substantial revision of the Restructuring Decision as necessary and justified.

(56) The run-off plan for KA sets out that the Bank will cease its lending business as of the date of this decision, limit its deposit business to […], as well as restrict its funding activities to finance the run-off (without further State support, according to projections). Ultimately, KA will be liquidated and exit the market.

(57) In the past, the Commission has encouraged the exit of non-viable players in an orderly manner[8], where such institutions cannot credibly return to long-term viability, and will continue to do so in the future[9].

(58) Consequently, the Commission considers that the replacement of the originally committed privatisation by the orderly run-off of KA is appropriate.

The contingent aid measures

(59) The Commission must assess if the measures granted for the run-off and not yet approved in the Restructuring Decision are compatible with the Treaty on the Functioning of the European Union ("*the Treaty*").

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[8] See point 5 of the "*Communication from the Commission – The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis* ", OJ C 270, 25.10.2008, and the Commission's case practice (e.g. N 560/2009 "*Aid for the liquidation of Fionia Bank*", SA.32504 "*Resolution of Anglo Irish Banks and Irish Nationwide Building Society*", SA.29590 "State aid for the r*estructuring of WestLB*").

[9] That position is confirmed in the "*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*", not yet published.

(60) As set out in Article 107(1) of the Treaty, 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.

(61) The contingent measures described in section II.4 will be provided through the State and therefore stem from State resources.

(62) Given that KA is active in the financial sector, albeit in a manner that will be capped and progressively reduced, which is a sector open to intense international competition, any advantage from State resources would have the potential to affect intra-Union trade and to distort competition.

(63) The Commission identifies the following parties that could potentially benefit from the aid: i) the buyer(s) of parts of KA; ii) the sold activities; iii) KA, the bank in run-off.

Potential aid to the buyer

(64) As regards the possible future sale of parts of KA, an advantage for the buyer could only exist if the price paid was too low. As any future sale will be carried out on the basis of an open, non-discriminatory and transparent tender process, the Commission considers that the price paid will reflect the market price. Consequently, in line with point (20) of the Restructuring Communication[10], it can be considered that the potential future buyers of parts of KA will not benefit from State aid.

Aid to the sold economic activity/entity

(65) The Commission recalls that the economic activity of a sold business is generally preserved if (parts of) the purchased undertaking's functional identity continues to exist. In that case, the sold economic activity would be a beneficiary of State aid.

(66) The Commission notes that parts of KA will potentially be sold in the future. Those future sales are therefore not the subject of this decision. However, the Commission will monitor on a case by case basis, if applicable, whether those sales lead to distortions of competition.

Aid to KA

(67) Although KA will ultimately be liquidated, it will still carry out some economic activities. However, such activities will be limited to those necessary for an orderly run-off within a limited period of time or those identified for sale. Such activities include the sale of parts of the Bank or of its assets, the management of the legacy loan book and the continuation of the consulting business.

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[10] *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. 8.

(68) KA will furthermore – albeit with a running-down objective and with strict conditions – hold institutional deposits. Since such activities are also carried out by other operators on the market, KA will potentially compete with them.

(69) The Commission therefore considers that the State measures, i.e. the contingent guarantees, the contingent State support in case of a capital shortfall and the liquidity facility to ensure KA's refinancing capacity over the run-off period, confer an advantage on KA, which, because it is not available to other undertakings, is selective. KA is therefore to be considered a beneficiary of State aid.

Compatibility of the run-off and the contingent aid

Legal basis for the compatibility assessment

(70) Article 107(3)(b) of the Treaty provides that State aid may be considered to be compatible with the internal market where it is intended to "*remedy a serious disturbance in the economy of a Member State*".

(71) The Commission considers that the run-off plan of KA may be examined under that provision, in line with the Commission's findings set out in chapter 5.2.1 of the Restructuring Decision that an uncontrolled liquidation of KA might have entailed a serious disturbance of Austria's economy.

Measures to limit distortions of competition

(72) The Austrian authorities have submitted a run-off plan providing for the orderly run-off of KA as of the date of this Decision. The Commission takes note of the timeframe presented in the run-off plan which sets out a liquidation by 2040. That timing might be accelerated if KA succeeds in selling parts of its business before that date.

(73) In line with the plan, KA will not pursue any new activities but only work out the assets in a controlled way over time. KA will not undertake new business, with the exceptions explained in recital (27) referring essentially to the restructuring of existing positions and the continued consultancy business (i.e. a non-banking activity) with the objective of selling that business.

(74) Moreover, the Commission notes that KA will stop new lending as of the date of this Decision. KA will therefore no longer actively compete on the loan market.

(75) KA will also limit its refinancing business to the mere financing of the legacy assets to the extent to which they have not been run-down yet.

(76) The Commission positively notes that Austria has given a number of commitments, set out in the Annex to this decision, which limit KA's deposit taking. The Commission notes that KA will take no deposits from […], price deposits not better than its competitors and decrease the stock of deposits over time.

(77) At the end of the run-off period, at the latest at 2040 according to the plan, KA will be liquidated and exit the market.

(78) The Commission notes that KA will keep its banking licence until liquidation because, under Austrian law, it cannot be returned before the entirety of the banking operations have been wound-up.[11] However, due to the commitments given by Austria the Commission does not object to that. In particular, the Commission notes in that context the commitments to stop new lending, not to start any new activities and to limit deposit taking.

(79) In view of the above, the Commission concludes that the distortions of competition are sufficiently limited.

Limitation of the aid to the minimum necessary and own contribution

(80) The Commission notes that the run-off plan sets out a long-term, loss-minimising strategy. The run-off plan projects that in principle no State aid will be required to enable KA to be effectively run-off. The State only provides contingent aid measures (liquidity facility and guarantees on emissions). Those measures will only be invoked if adverse market conditions make it impossible for KA to refinance itself on its own.

(81) Considering the above, the Commission finds that the cost for the State associated with the run-off of KA is limited.

(82) Point (24) of the Restructuring Communication sets out that companies should use their own resources to finance restructuring, for instance through the sale of assets. The Commission notes that KA projects to finance the run-off without any State support. In addition, KA plans to sell the remaining subsidiaries and participations, and will try and sell parts of the Bank. The sale(s) will be organised through open tender process in order to maximise the return for the Bank, which would then be used to finance the run-off.

(83) Moreover, the Commission acknowledges that the contingent State aid is limited to the minimum necessary, because the amount will not exceed the difference between the funding needs and the funding obtained by KA in conformity with figures provided in the run-off plan and the commitment provided by Austria in that respect (see Annex to the decision). Furthermore, there is an additional cap which ensures that the State support will not, in any event, exceed the required new funding set out in Table 2 by more than 20% in any given year.

(84) A comparable limitation has been introduced for the contingent State support in case of a capital shortfall. The State will only provide the minimum amount of capital needed so that KA again complies with the regulatory capital requirements. Furthermore, over the entire run-off period any such capital injection will not, in any event, exceed the equity and participation capital as set out in Table 2 by more than 50 % in any given year, provided that the resulting capital quota of KA is limited to the minimum Basel III capital requirements as they apply in each given year plus any buffer as may be required by the competent supervisor.

(85) In view of the above, the Commission considers that the aid is limited to the minimum necessary.

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[11] Austria referred to §7 (3) BWG (the Austrian Banking law).

Monitoring

(86) Austria undertakes to submit to the Commission regular reports to monitor the compliance with the commitments of this decision. In line with section E of the Annex to this decision, the reports will be submitted on a six-monthly basis until the end of 2019, and on a yearly basis thereafter until the full liquidation of the Bank.

Conclusion on compatibility

(87) In the light of the commitments set out in the Annex to this decision, the Commission concludes that the notified measures described above are compatible with the internal market pursuant to Article 107(3)(b) of the Treaty.

CONCLUSION

(88) The Commission finds the State aid notified by Austria for the orderly liquidation of KA compatible with the internal market pursuant to Article 107(3)(b) of the Treaty.

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 fax to:

European Commission
Directorate-General for Competition
State Aid Registry
B-1049 Brussels
Fax No: +32-2-296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President

Annex

SA.32745 (2011/MC) – Kommunalkredit Austria AG

COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Article 7 (3) of Council Regulation (EC) No. 659/99 as amended (the "***Procedural Regulation***"), the Republic of Austria ***("Austria"***) hereby provides the following Commitments (the "***Commitments***") concerning Kommunalkredit Austria AG, incorporated under the laws of the Republic of Austria, with its registered office at Türkenstraße 9, 1062 Wien, Österreich, and registered with the Austrian Companies Register at Handelsgericht Wien under number 45776v (hereinafter "***KA***") in order to enable the European Commission (the "***Commission***") to find the aid relating to the restructuring of KA compatible with the internal market and the EEA Agreement by its decision pursuant to Article 107 (3) (b) of the Treaty on the Functioning of the European Union (the "***Decision***").

The Commitments shall take effect upon the date of adoption of the Decision.

This text shall be interpreted in the light of the Decision, within the general framework of Community law and by reference to the Council Regulation (EC) No. 659/99.

Section A. Definitions

For the purpose of the Commitments, the following terms shall have the following meaning:

Existing Deposit Customers: all deposit customers, which […].

New business: new banking business on the asset side with the exception of:

1. Consulting services, which do not represent banking business requiring a banking license; and

2. Use of securities for the purpose of liquidity risk management, e.g. in the context of cover pool management (*"Deckungsstockmanagement"*) and compliance with liquidity ratios as the liquidity coverage ratio under Basel III.

Restructuring of existing positions as part of the balance sheet management to improve returns: changes of terms (including re-pricing, margin increases and changes of maturities) and the value-preserving sale of positions or portfolios where these lead to an accelerated run-off of the existing portfolio and do not result in a long-term increase of the required run-off aid as well as in total exposure.

Section B. Orderly run-off

1. ***Implementation of the run-off plan:*** Austria commits that KA will fully implement the run-off plan which is the basis of the Decision.

2. ***Discontinuation of new business:*** Austria commits that KA will cease any new business as of the date of the Decision.

   This excludes financing which was already committed before the date of the Decision or is currently in the bidding process[12] amounting to a total of approximately EUR [300 – 600] million. These transactions will be paid out predominantly in the years 2013 to 2015.

3. ***No new economic activities:*** KA will not carry out new economic activities in the course of its run-off, apart from the activities necessary to facilitate its run-off and the consulting services as well as support scheme management pursuant to paragraph 4.

4. ***Consulting services/support scheme management:*** Austria commits that consulting services and services in relation to support scheme management will be provided by KA only until [5 – 10 years]. At the latest at this time these activities have to be sold or run-off.

5. ***Refinancing:*** Austria commits that the refinancing activities of KA will be reduced to the refinancing of its assets to the extent to which they have not been run-down yet, as well as risk management via interest rate and currency hedge derivatives (*"Zins- und Währungsabsicherungsderivate*").

   KA will restrict itself to market-based refinancing: (i) during the year ("*unterjährig*") through customer deposits, (ii) Covered Bond issues and (iii) Senior Unsecured Lending. In addition, ECB-Funding, Repos (such as GC Pooling) and Interbank Money Markets will be used for liquidity management purposes to a small extent.

6. ***Deposits:*** Austria commits that as of the date of the Decision (i) KA will only take new deposits from […], (ii) KA will ensure that the total stock of deposits does not exceed a ceiling of EUR [1.1 – 2.1] billion until 2015 and will be reduced to EUR [150 – 300] Million until 2040 according to the table below, (iii) all deposits will be at market conditions, i.e. pricing will be in line with average market prices and KA will not be price leader, and (iv) KA will not launch any advertising campaigns regarding deposits. The Monitoring Trustee will monitor the compliance with this commitment.

[12] These correspond to written offers subject to board approvals.

Maximum amount of deposits in EUR m	2013 - 2015	2016 - 2020	2021 - 2025	2026 - 2030	2031 - 2035	2036 - 2040
Deposits	[1,100 - 2,100]	[800 - 1,600]	[600 - 1,200]	[400 - 900]	[200 - 700]	[150 - 300]

7. ***Timeframe for orderly run-off:*** The orderly run-off of the full permanent business of KA will be substantially completed by 31 December 2040. The run-off will follow the timetable set out in the table below.

Portfolio Run-Off in EUR m	2015	2020	2025	2030	2035	2040
Remaining loan & security portfolio	[5,000 - 10,000]	[3,000 - 6,500]	[2,000 - 4,000]	[1,000 - 2,500]	[500 - 1,500]	[0 - 500]

Asset portfolio shown without potential fluctuations due to Fair Value- and FX-valuations and excluding expected cash collateral, liquidity reserve and items shown under other assets in the balance sheet, e.g. accrued interest

Section C. Sale options

8. ***Sale of parts of KA:*** Austria commits that a potential sale contract for parts of KA does not cover more than […] of KA's total assets at the time of this decision and complies with State aid requirements, including an open and transparent tender process.

9. ***Sale of participations:*** KA may sell the participations listed below to the best conditions by [5 – 10 years] ("signing").

   […]

10. If the sale of KA's participations under […] cannot be completed by [5 – 10 years], Austria commits that KA will run-off the activities of those participations as of […].

11. Austria commits that no new contracts will be entered into by participations […] which would impede the closure of business by [5 – 10 years].

12. For the participations […], Austria commits that KA will sell those participations […] by [5 – 10 years]. If a sale is not possible by […].

Section D. Continued adherence to previous commitments

The following commitments will continue to apply during the orderly run-off period as before:

13. ***Dividend, Coupon and Call ban***: With regard to coupon payments or dividend payments and call options on own funds instruments, unless the Commission otherwise agrees to an exemption, Austria commits that:

    (a) KA will not pay any coupon or dividend on own funds instruments by using the capital or reserves of KA, other than where there is a legal obligation to do so. In case of doubt as to whether for the purpose of the present commitment a legal obligation exists, KA shall submit the proposed coupon or dividend payment to the Commission for approval at least two weeks before the date of the payment.

(b) KA will not exercise a call option in respect of these own fund instruments including tier 1 and tier 2 instruments if KA's total regulatory capital would be reduced following such exercise.

14. ***Acquisition ban***: Austria commits that KA and any other entity which is under direct or indirect control of KA, will refrain from acquiring any share in both financial and non-financial institutions.

15. ***Advertising ban***: Austria commits that KA will not use the granting of the aid measures or any competitive advantages arising in any way from the aid for advertising purposes.

Section E. Reporting

I. Monitoring Trustee

16. PKF CENTURION, who has previously been appointed as Monitoring Trustee to monitor the compliance with all commitments given in relation to KA's restructuring, will be reappointed as Monitoring Trustee to monitor the compliance with the Commitments of the Decision. A Divestiture Trustee will not be appointed under the Decision.

II. Reporting

17. ***Frequency:*** Within 45 days after the publication of each half-year results and full business year results until the end of 2019 and subsequently after the end of each business year or as otherwise agreed with the Commission, the Monitoring Trustee shall submit a draft written report in English to the Commission, KA and Austria, giving each the opportunity to submit comments within 5 working days. Within 5 working days of receipt of the comments, the Trustee shall prepare a final report and submit it to the Commission, incorporating the Commission's comments to the extent possible and, at his sole discretion, taking account of the comments submitted by Austria and KA. The Trustee will also send a copy of the final report to Austria and to KA. In case that the draft report or the final report contains any information that must not be disclosed to KA, KA shall only be provided with a non-confidential version of the draft report and the final report. Under no circumstances will the Trustee submit any version of the report to Austria and/or KA before submitting it to the Commission.

18. The report shall cover the Monitoring Trustee's fulfilment of its obligations under the Mandate and the compliance of the Parties with the Commitments during the preceding semester and business year.

III. Functions of the Trustee

19. The Trustee shall assume its specified duties in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee,

Austria or KA, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

20. The Monitoring Trustee shall:

(i) monitor the implementation of the run-off plan and compliance by KA with the commitments attached to the Decision, including the monitoring of the commitment in para. 6 above that KA will only take deposits at market conditions. KA will provide evidence to the Monitoring Trustee that market conditions are observed by keeping records on deposit quotes and volumes on the basis of which business was completed or lost. In addition, KA will keep a record on public deposit rates of competitor banks (i.e. homepage etc.) which allow an ex post verification of market conformity. The Monitoring Trustee will include a section on market conformity of deposits taken by KA in his regular monitoring report;

(ii) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision;

(iii) propose to KA such measures as the Monitoring Trustee considers necessary to ensure KA’s compliance with the commitments attached to the Decision;

(iv) review and assess potential sales with regard to section C as well as verify the compliance with the commitment in paragraph 11;

(v) provide to the Commission, KA and Austria, within 45 days after the end of each semester and business year or as otherwise agreed with the Commission, a draft written report in English, giving each recipient the opportunity to submit comments within 5 working days. Within 5 working days of receipt of the comments, the Trustee shall prepare a final report and submit it to the Commission, incorporating the Commission's comments to the extent possible and, at his sole discretion, taking account of the comments submitted by Austria and KA. The Trustee will also send a copy of the final report to Austria and to KA. In case that the draft report or the final report contains any information that must not be disclosed to KA, KA shall only be provided with a non-confidential version of the draft report and the final report. Under no circumstances will the Trustee submit any version of the report to Austria and/or KA before submitting it to the Commission. In addition to these reports, the Monitoring Trustee shall promptly report in writing to the Commission, sending to Austria and, in relevant parts to KA, a non-confidential copy at the same time, if he concludes on reasonable grounds that Austria and/or KA are failing to comply with these Commitments;

IV. Duties and obligations of the Republic of Austria and KA

21. Austria commits that KA will provide and cause its advisors to provide the Trustee with all such cooperation, assistance and information as the Trustee may reasonably require performing its tasks. The Trustee shall have full and complete access to any of KA's books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and KA shall provide

the Trustee upon request with copies of any document. KA shall make available to the Trustee one or more offices on their premises, if deemed necessary by the Trustee, shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.

22. Austria commits that KA will indemnify the Trustee and its employees and agents (each an "***Indemnified Party***") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to KA for any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.

23. At the expense of KA, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to KA's approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should KA refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard KA. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 22 shall apply mutatis mutandis.

V. Replacement, discharge and reappointment of the Trustee

24. If the Trustee does not fulfil its functions under the Commitments or for any other good cause, including the exposure of the Trustee to a conflict of interest:

    (a) the Commission may, after hearing the Trustee, require KA to replace the Trustee; or

    (b) KA, with the prior approval of the Commission, may replace the Trustee.

25. If the Trustee is removed according to paragraph 24, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. In such cases, the Trustee may be required by the Commission to continue in its function until a new Trustee is in place and has been effectively handed over all relevant information.

26. Beside the removal according to paragraphs 24, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.