



EUROPEAN COMMISSION

Brussels, 27.6.2011
C(2011) 4590 final

**Subject: State Aid SA.33154 (2011/N) – Greece
Second prolongation of the Recapitalisation of credit institutions in
Greece under the Financial Stability Fund (FSF)**

Sir,

I. PROCEDURE

- (1) On 3 September 2010, the Commission approved the recapitalisation operations under the Financial Stability Fund (hereinafter 'FSF' or 'the Fund') until 31 December 2010¹ (hereinafter the "original decision").
- (2) On 14 December 2010, the Commission approved the prolongation of the recapitalisation operations under the FSF until 30 June 2011 (hereinafter 'the first prolongation decision').²
- (3) On 9 June 2011, Greece notified a second prolongation of the recapitalisation operations under the FSF until 31 December 2011. On 10 June 2011, the Greek authorities exceptionally accepted that the Commission decision be adopted in the English language.

II. DESCRIPTION

1. Legal basis and objective

¹ See Commission decision of 3 September 2010 in State Aid N 328/2010 "Recapitalisation of credit institutions in Greece under the Financial Stability Fund (FSF)", OJ C 316, 20.11.2010, p.7.

² See Commission decision of 14 December 2010 in State Aid case SA.31999 (2010/N), "Prolongation of the Recapitalisation of credit institutions in Greece under the Financial Stability Fund (FSF)", OJ C 62, 26.02.2011, p. 16.

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- (4) The Memorandum of Understanding on Specific Economic Policy Conditionality between the Greek Government, the European Union, the International Monetary Fund and the European Central Bank dated 3 May 2010 provided for the establishment of the FSF.
- (5) On 13 July 2010, the Greek Parliament enacted the Law 3864/2010 on the establishment of the Fund. The Fund is a legal person governed by private law, with administrative and financial independence.
- (6) The objective of the Fund is to safeguard the stability of the Greek banking system by providing equity capital to credit institutions³. The Fund provides a safety net for credit institutions that may not be able to continue to comply with their capital requirements.

2. The Beneficiaries

- (7) According to the law establishing the FSF, the beneficiaries of the Fund are all credit institutions, including subsidiaries of credit institutions having their registered office abroad, legally operating in Greece following authorization by the Bank of Greece.

3. Description of the Fund

- (8) The capital of the Fund amounts to EUR 10 billion stemming from the EU-IMF financial support mechanism to Greece. The Fund's capital is gradually paid up by the Greek State. The Fund is set up for a limited duration until 30 June 2017.
- (9) The activation of the Fund can occur in a number of situations as indicated in paragraph 15 of the original decision.
- (10) When activated, the Fund and the credit institution shall jointly draw up a detailed restructuring plan or amend any plan already submitted to the European Commission, in accordance with the applicable EU State aid legislation and the relevant guidelines provided by the European Commission. Within six months from the granting of the capital injection, Greece shall submit the restructuring plan to the European Commission.
- (11) According to the law establishing the FSF, the capital injections shall be carried out by issuance of preference shares, except when the credit institution does not comply with the Pillar 1 capital requirements and no private solution has been found, where the capital increase shall be carried out by issuance of common shares. Such capital increases shall be covered entirely in cash.
- (12) In principle, the remuneration of the preference shares is 10%. The Greek authorities shall notify individually cases where the remuneration is lower than 10%.

³ The Fund will operate in parallel with the Recapitalisation Scheme established under Law 3723/2008 "For the enhancement of liquidity of the economy in response to the impact of the international financial crisis" and approved by the Commission decision of 19 November 2008 in State aid case N560/2008 with the subsequent prolongations and amendments (hereinafter the "Recapitalisation Scheme"). See para. 40 of the original decision.

4. Operation of the measure

- (13) According to the information provided by the Greek authorities, no recapitalisation operations have been carried out under the Fund yet.

III. POSITION OF GREECE

- (14) The Greek authorities have notified the prolongation measure as compatible State aid within the meaning of Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU).
- (15) Greece intends to prolong the measure until 31 December 2011. The Greek authorities commit that all the conditions and commitments taken in the context of the original decision in State aid case N 328/2010 remain unchanged. Moreover, the Greek authorities commit that any changes in the FSF Law envisaged in the next Memorandum of Understanding on Specific Economic Policy Conditionality between the Greek Government, the European Union, the International Monetary Fund and the European Central Bank will be effective by the date provided in the said Memorandum and the requested changes will be notified to the Commission for State aid approval.
- (16) According to the Greek authorities, the prolongation of the measure would prove beneficial for the restoration of confidence and the normalization of the functioning of the markets, taking into account a number of factors such as the fiscal difficulties of Greece, the current market demand conditions, the previous and impending downgrading in valuations of collateral eligible for Eurosystem funding etc.
- (17) According to the letter submitted by the President of the Fund, the economic situation of Greece entails dangers for the banking system and it is necessary for the FSF to be operational in order to ensure financial stability as well as public confidence.

IV. ASSESSMENT

1. Existence of State aid

- (18) 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, save as otherwise provided.
- (19) For the reasons indicated in its original decision in State aid case N 328/2010 and the first prolongation decision of 14 December 2010, the Commission considers that the measure constitutes State aid. The notified prolongation does not affect that finding. The measure remains State aid within the meaning of Article 107(1) TFEU.

2. Compatibility of the measure

- (20) For the reasons indicated in the original decision and the first prolongation decision, the Commission found the measure to be compatible with the internal

market under Article 107(3)(b) TFEU, as it met the relevant criteria of appropriateness, necessity and proportionality.

- (21) Access to funding and capital for banks has gradually improved in most markets over the past year and is no longer a systematic and generalized problem. However, access to funding for Greek banks remains very difficult. The continuation of the measure can be deemed necessary to ensure financial stability as confirmed by the Fund.
- (22) The Commission therefore considers that the prolongation of the measure for a further six months is appropriate and necessary to remedy a serious disturbance of the Greek economy.
- (23) The Commission notes that the extension of the measure would prove beneficial for the restoration of confidence and the normalization of the functioning of the markets, taking into account a number of factors such as the fiscal difficulties of Greece, current market demand conditions etc.
- (24) The prolongation notified by the Greek authorities on 9 June 2011 is a response to the difficulties that Greek banks have to deal with, in order to restore confidence. The Commission notes that the measure is, under current circumstances, vital for the credit supply to the economy and financial stability.
- (25) The Commission notes that six months from the granting of any capital injection, the Greek authorities shall submit to the Commission a restructuring plan for the credit institution recapitalised under the Fund⁴ in accordance with the Restructuring Communication⁵. That obligation, already established in the original decision, is in line with the requirements set out in the Commission Communication of 1 December 2010 on the application, after 1 January 2011, of State aid rules to support measures in favour of banks in the context of the financial crisis.⁶
- (26) As regards the combination of the scheme with other aid measures, as indicated in the Annex to the Restructuring Communication, 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). It means that 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 that end an individual *ex ante* notification is necessary.
- (27) Furthermore, the Commission recalls that, based on paragraph 16 of the Restructuring Communication, should further aid not initially foreseen in a notified restructuring plan be necessary for the restoration of viability, it cannot

⁴ See para. 64 of the original decision.

⁵ 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.

⁶ Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of banks in the context of the financial crisis, OJ C 329, 7.12.2010, p. 7.

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.

- (28) The Commission notes that the Greek authorities commit that all the conditions and commitments taken in the context of the original decision in State aid case N 328/2010 will continue to apply. Moreover, the Greek authorities commit that any changes in the FSF Law envisaged in the next Memorandum of Understanding signed by Greece will be effective by the date provided in the said Memorandum and the requested changes will be notified to the Commission for State aid approval. That commitment ensures that the scheme does not continue to operate in its current form if the Memorandum considers that changes must be introduced.
- (29) On the basis of the above, the notified prolongation of the measure does not alter the Commission's previous assessment in the original decision in State aid case N 328/2010 as well as the first prolongation decision of 14 December 2010, so that the measure remains compatible with the internal market until 31 December 2011.

V. DECISION

The Commission finds that the measure constitutes State aid within the meaning of Article 107(1) TFEU.

Since the measure satisfies the conditions for aid under Article 107(3)(b) TFEU, it is compatible with the internal market. The Commission has accordingly decided not to raise objections to the notified prolongation of the measure until 31 December 2011.

The Commission notes that Greece has exceptionally accepted that the decision be adopted in the English language.

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http://ec.europa.eu/eu_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*