EUROPEAN COMMISSION

Brussels, 6.7.2012
C(2012) 4709 final

Subject: **State Aid SA.35002 (2012/N) - Greece**
Seventh prolongation of the Support Scheme for Credit Institutions in Greece

Sir,

I. PROCEDURE

(1) On 19 November 2008[1], the Commission approved the Support Measures for the Credit Institutions designed to ensure the stability of the Greek financial system (hereinafter referred to as the "Original Decision"). On 2 September 2009, Greece notified a number of amendments to the support measures and a prolongation until 31 December 2009 that were approved on 18 September 2009[2]. On 25 January 2010[3], the Commission approved a second prolongation of the support measures until 30 June 2010. On 12 May 2010, the Commission approved an amendment to the Guarantee Scheme[4]. On 30 June 2010, the Commission approved a number of amendments to the support measures and an extension until 31 December 2010[5].

[1] See Commission decision of 19 November 2008 in State Aid N 560/2008 "Support Measures for the Credit Institutions in Greece", OJ C 125, 05.06.2009, p. 6.

[2] See Commission decision of 18 September 2009 in State Aid N 504/2009 "Prolongation and amendment of the Support Measures for the Credit Institutions in Greece ", OJ C 264, 06.11.2009, p. 5.

[3] See Commission decision of 25 January 2010 in State Aid N 690/2009 "Prolongation of the Support Measures for the Credit Institutions in Greece", OJ C 57, 09.03.2010, p. 6.

[4] See Commission decision of 12 May 2010 in State Aid N 163/2010 "Amendment to the Support Measures for the Credit Institutions in Greece", OJ C 166, 25.06.2010, p. 2.

[5] See Commission decision of 30 June 2010 in State Aid N 260/2010 "Extension of the Support Measures for the Credit Institutions in Greece", OJ C 238, 03.09.2010, p. 3.

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(2) On 21 December 2010 the Commission approved the extension of the support measures until 30 June 2011[6]. On 4 April 2011 the Commission approved an amendment to the support measures in the form of an increased ceiling of the Guarantee Scheme with an additional tranche amounting to EUR 30 billion[7]. On 30 June 2011, the Commission approved a prolongation of the support measures until 31 December 2011[8]. On 6 February 2012, the Commission approved an amendment to the support measures and a prolongation of the support measures until 30 June 2012.[9]

(3) On 6 June and 15 June 2012, the Greek authorities submitted information regarding the intention to extend the measures until 31 December 2012.

(4) On 19 June 2012, the Greek authorities notified a prolongation of the measures until 31 December 2012.

(5) On 19 June 2012, the Greek authorities informed the Commission that the Greek authorities exceptionally accept that the Commission decision be adopted in the English language.

(6) On 22 June 2012, the Commission services asked the Greek authorities for further information regarding the prolongation of the measures.

(7) On 22 June 2012 and on 27 June 2012, the Greek authorities submitted further information.

(8) Further correspondence took place between the Greek authorities and the Commission services.

II. DESCRIPTION

II.1 The original support measures

(9) In November 2008, Greece brought forward a package of measures designed to ensure the stability of the Greek financial system. The purpose of those measures was to restore confidence and encourage healthy inter-bank lending, through the provision of liquidity, the recapitalisation of the financial sector and provision of a State guarantee to new debt issuance.

(10) The measures consist of i) a Bank Recapitalisation Scheme whereby the State is acquiring preference shares in participating financial institutions; ii) a Wholesale Funding Guarantee Scheme for debt instruments with a maturity of between three months and

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6 See Commission decision of 21 December 2010 in State Aid SA.31998 (2010/N) "Fourth extension of the Support Measures for the Credit Institutions in Greece", OJ C 53, 19.02.2011, p. 2.

7 See Commission decision of 4 April 2011 in State Aid SA.32767 (2011/N) "Amendment to the Support Measures for the Credit Institutions in Greece", OJ C 164, 02.06.2011, p. 8.

8 See Commission decision of 30 June 2011 in State Aid SA.33153 (2011/N) "Fifth prolongation of the Support Measures for the Credit Institutions in Greece", OJ C 274, 17.09.2011, p. 5.

9 See Commission decision of 6 February 2012 in State aid SA.34149 (2011/N) "Sixth prolongation of the Support Measures for the Credit Institutions in Greece", OJ C 101, 04.04.2012, p.2-3.

three years in return for a fee ("the Guarantee Scheme"); and iii) support through the lending of Greek State special purpose securities to credit institutions, in return for a fee, to be used to obtain liquidity from the central bank and the interbank markets ("Bond Loan Scheme"). Further details on the measures are provided in the Commission's previous Decisions. The various measures are referred to jointly in this decision as "the Schemes".

II.2 Operation of the Schemes according to an update of 22 May 2012

(11) On 19 June 2012 the Greek authorities submitted a report on the operation of the Schemes.

(12) More specifically, as regards the **Recapitalisation Scheme**, the total amount granted is EUR 4.473 billion i.e. around 90% of the total amount available (EUR 5 billion).

(13) Regarding the functioning of the **Guarantee Scheme**, an amount of EUR 64.286 billion has been granted in the form of guarantees, i.e. around 76% of the total amount available of EUR 84.877 billion[10].

(14) Regarding the functioning of the **Bond Loan Scheme** (the special purpose securities), an amount of EUR 2.768 billion has been granted to beneficiary banks in the form of bond loans and an amount EUR 4.540 billion has been allocated but not granted, i.e. around 90% of the total amount available (EUR 8.123 billion).

II.3 Remuneration

(15) The remuneration of the recapitalisation, the guarantees and the bond loan schemes have been adapted to comply with the guidelines set out in the 2011 Prolongation Communications[11] as indicated below.

(16) On the recapitalisation scheme, point 3 of the 2011 Prolongation Communication requires that hybrid instruments should in principle contain an "alternative coupon satisfaction mechanism" whereby coupons which cannot be paid out in cash would be paid to the State in the form of newly issued shares. Regarding the conversion price of the coupon amount into shares, Greece committed that it will not be above the stock market price at the time of the issuance of the hybrid instrument.

(17) On the guarantees, the 2011 Prolongation Communication requires that for guarantees covering debt with a maturity of one year or more, the guarantee fee will, as a minimum, be the sum of:

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10 The total budget of the Guarantee Scheme includes the initial budget of the Original Decision (EUR 15 billion), the increase in the budget carried out on 12 May 2010 (EUR 15 billion), the increase in the budget carried out on 30 June 2010 (EUR 25 billion), the increase in the budget carried out on 4 April 2011 (EUR 30 billion), except the amount of EUR 123 million which has been transferred from the budget of the Guarantee Scheme to the Bond Loan Scheme (see Commission decision of 30 June 2010 in State Aid case N 260/2010, para. 7-8).

11 Communication from the Commission on the application, from January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis, OJ C 356, 6.12.2011, p. 7.

i. a basic fee of 40 basis points ("bp"); and

ii. a risk-based fee equal to the product of 40 bp and a risk metric composed of (i) one-half of the ratio of the beneficiary's median five-year senior credit default swap ("CDS") spread over the three years ending one month before the date of issue of the guaranteed bond to the median level of the iTraxx Europe Senior Financials five-year index over the same three-year period, plus (ii) one-half of the ratio of the median five-year senior CDS spread of all Member States to the median five-year senior CDS spread of the Member State granting the guarantee over the same three-year period[12].

(18) For banks without CDS data or without representative CDS data, but with a credit rating, an equivalent CDS spread will be derived from the median value of five-year CDS spreads during the same sample period for the rating category of the bank concerned, based on a representative sample of large banks in the Member States. The supervisory authority will assess whether the CDS data of a bank are representative.

(19) For banks without CDS data and without a credit rating, an equivalent CDS spread will be derived from the median value of five-year CDS spreads during the same sample period for the lowest rating category, based on a representative sample of large banks in the Member States. The calculated CDS spread, for that category of banks, may be adapted on the basis of a supervisory assessment.

(20) For guarantees covering debt with a maturity of less than one year, as CDS spreads may not provide an adequate measure of credit risk for debt with a maturity of less than one year, the guarantee fee for such debt will as a minimum be the sum of:

(i) a basic fee of 50 bp; and

(ii) a risk-based fee equal to 20 bp for banks with a rating of A+ or A, 30 bp for banks with a rating of A-, or 40 bp for banks rated below A- or without a rating.

(21) The Greek authorities claimed in a letter submitted to the Commission on 19 June 2012, that, in respect of the formula to determine the fee for guarantee longer than one year, they still consider that the four large Greek banks have no representative CDS, and that therefore for all the banks the Greek authorities will determine the guarantee fee on the basis of the CDS of the sample of banks in the lowest rating buckets ("BBB and below").

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12 The formula for the guarantee fee can be written as: Fee = 40bp x (1 + (1/2 x A/B) + (1/2 x C/D)) where A is the beneficiary's median five-year senior CDS spread, B is the median iTraxx Europe Senior Financials five-year index, C is the median five-year senior CDS spread of all Member States and D is the median five-year senior CDS spread of Greece, as the Member State granting the guarantee.
The medians are calculated over the three years ending one month before the date of issue of the guaranteed bond. In the case of guarantees for covered bonds, the guarantee fee may take into account only one-half of the risk-based fee.

III. POSITION OF GREECE

(22) The Greek authorities have notified the prolongation of the Schemes as compatible State aid pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union ("TFEU").

(23) Greece intends to prolong the Schemes until 31 December 2012. The Greek authorities have not notified any changes to the conditions and commitments taken in the context of the Commission's decisions in State aid cases N560/2008, N504/2009, N690/2009, N163/2010, N260/2010, SA.31998, SA.32767, SA.33153 and SA.34149.

(24) According to the Greek authorities, the Greek banking system still faces acute funding problems, reflecting the following factors: a) capital markets remain closed for Greek banks; b) private sector deposit outflows have resumed and c) the recent widening of spreads has translated into a decline in the value of collateral. According to the Greek authorities, the recent action to allocate EUR 18 billion for the bridge recapitalisation of the four systemic Greek banks marks a very important step toward the restructuring of the Greek banking system, a restructuring that will lead to a vibrant and competitive banking system. Until that process is completed, adequate liquidity provision will remain crucial.

(25) For those reasons, the Greek authorities consider that it would prove beneficial for the restoration of confidence and the normalization of the functioning of the markets to have a prolongation approved for the scheme until 31 December 2012. In that respect, according to the Greek authorities, the Governor of the Central Bank confirms the need for the prolongation of the scheme introduced through the Greek law 3723/2008.

(26) That assessment is confirmed also under the Second Economic Adjustment Programme for Greece – Occasional Paper 94, March 2012.[13]. According to that report, the financial sector's situation remains fragile. The Greek banks confront the challenge of a protracted recession and the low credit standing of the economy as a whole. Deleveraging continues and the liquidity position of banks is tight. Huge sums are needed for restoring solvency of a number of banks. The restructuring of individual banks is on-going.

(27) In addition to the existing commitments concerning reporting obligations, Greece undertakes to submit to the Commission a concise mid-term review on the operation of the Guarantee Scheme by 15 October 2012 at the latest.

(28) To enable the Commission to assess the application in practice of the revised pricing to be applied from 1 January 2012, Greece provided the indicative fee, as of 1 July 2012, for banks eligible to benefit from those guarantees, based on an application of the formula using recent market data. Furthermore, Greece commits to communicate to the Commission, within three months following each issue of guaranteed bonds, the actual guarantee fee charged in relation to each issue of guaranteed bonds.

(29) As regards the recapitalisation scheme, Greece undertook the commitments that already exist in the State aid cases SA.34148 and SA.34149, in line with points 8 and 13 of the

[13] http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf

2011 Prolongation Communication respectively. Also, the Greek authorities explicitly commit to notify individually any recapitalisation of a bank which has already received a recapitalisation by the State in the current crisis, independently of the form of that earlier recapitalisation (i.e. in the form of preference shares under the State recapitalisation scheme introduced in 2009 or under the HFSF scheme).

IV. ASSESSMENT

IV.1 Existence of State aid

(30) 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.

(31) For the reasons indicated in its decisions in the State aid cases N 560/2008, N 504/2009, N 690/2009, N 163/2010, N 260/2010, SA.31998, SA.32767, SA.33153 and SA.34149, the Commission considers that the Schemes constitute State aid. The notified prolongation does not affect that finding. The Schemes remain State aid within the meaning of Article 107(1) TFEU.

IV.2 Compatibility of the Schemes

(32) For the reasons indicated in the previous Decisions on the Schemes, the Commission found the Schemes to be compatible with the internal market under Article 107(3)(b) TFEU, as they met the relevant criteria of appropriateness, necessity and proportionality.

(33) Access to funding for Greek banks remains very difficult. According to the information submitted by the Greek authorities the Greek banking system still faces acute funding problems, resulting from the continued market volatility. The continuation of the Schemes can be deemed necessary to ensure financial stability. The Commission therefore considers that the prolongation of the Schemes until 31 December 2012 is appropriate and necessary to remedy a serious disturbance of the Greek economy.

(34) The prerequisites for the compatibility of guarantee schemes with Article 107(3)(b) TFEU that have been established by the Banking Communication[14] and the Commission's subsequent decisional practice continue to apply. Moreover, the 2011 Prolongation Communication has modified the formula for the calculation of the remuneration of the guarantees. The Commission acknowledges that no Greek bank, including the largest ones, has representative CDS any longer and that the Greek authorities could determine the guarantee fee on the basis of the CDS of the sample of banks in the lowest rating bucket, i.e. BBB and below. The Commission notes that the absence of a representative CDS reflects the distress of the Greek sovereign and not specific risk-taking or

[14] 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, p. 8.

mismanagement by the Greek banks. Therefore the Commission accepts that the Greek banks, in the absence of a representative CDS, use the CDS of the lowest rating category.

(35) The Commission also notes that Greece has committed to respect the new guidelines on the remuneration of the guarantees set out in the 2011 Prolongation Communication and to communicate to the Commission, within three months following each issue of guaranteed bonds, the actual guarantee fee charged in relation to each issue.

(36) The Commission considers that the notified prolongation until 31 December 2012 of the Guarantee and the Bond Loan Scheme complies with the requirements set out above and is compatible with the internal market.

(37) As regards the Recapitalisation Scheme, the notified prolongation is in line with the requirements set out in the 2011 Prolongation Communication which requires, in particular, new pricing conditions and confirms the need for the presentation of a restructuring plan in any event of granting of recapitalisation measures. The Commission notes that in line with point 13 of the 2011 Prolongation Communication, which requires that hybrid instruments should in principle contain an "alternative coupon satisfaction mechanism" whereby coupons which cannot be paid out in cash would be paid to the State in the form of newly issued shares, the Greek authorities committed to introduce such a mechanism. Regarding the conversion price, Greece committed that the conversion will not exceed the stock market price at the time of the issuance of the hybrid instrument. That commitment will ensure that the State will not overpay for newly issued shares received in lieu of the foregone coupon.

(38) Moreover, the Commission positively notes the commitment to notify individually any recapitalisation of a bank which has already received a recapitalisation from the State in the current crisis. That commitment will allow the Commission to assess individually recapitalisation of banks which receive successive aid and to assess whether an additional recapitalisation of the bank is the best option to preserve financial stability and limit distortions of competition.

(39) As regards the combination of State aid granted under the Schemes with other aid measures, as indicated in the Annex to the Restructuring Communication[15], 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.

(40) 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, that additional aid cannot be granted under an

[15] OJ C 195, 19.08.2009.

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.

(41) The Commission notes that the prolongation of the Schemes should 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 overall market uncertainty, the still very high reliance of Greek banks on borrowing from the Central Bank and the ongoing discussion on debt restructuring.

(42) The prolongation notified by the Greek authorities on 19 June 2012 is a response to the difficulties that Greek banks have to deal with, in order to restore confidence. The Commission notes that the Schemes are, under current circumstances, vital for the credit supply to the economy and financial stability. Moreover, the Commission notes that the Schemes are limited in time and will expire at the end of December 2012.

(43) Greece agreed to provide the Commission with a concise mid-term review of the operation of the Guarantee and the Bond Loan Schemes by 15 October 2012 in addition to the pre-existing reporting requirements and to complement its future reports on the operation of the Schemes with updated available data on the cost of comparable (nature, volume, rating, currency, etc.) non-guaranteed and guaranteed debt issuances[16].

(44) On the basis of the above, the notified prolongation of the Schemes does not alter the Commission's assessment in the decisions in State aid cases N 560/2008, N 504/2009, N 690/2009, N 163/2010, N 260/2010, SA.31998, SA.32767, SA.33153 and SA.34149.

(45) In view of the above, the prolongation of the Schemes until 31 December 2012 is compatible with the internal market as it is an appropriate, necessary and proportionate means to remedy the serious disturbance of the Greek economy.

V. DECISION

The Commission has accordingly decided to consider the aid to be compatible until 31 December 2012 with the internal market.

The Commission recalls the commitment of the Greek authorities to notify individually the recapitalisation of banks which have already received recapitalisation aid during the current crisis. Such recapitalisations are therefore not approved by the current decision.

The Commission notes that Greece has exceptionally accepted that the decision 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

[16] See point 36 of the Commission decision of 30 June 2010 in State Aid N 260/2010 and point 12 of the Commission decision of 12 May 2010 in State Aid N 163/2010.

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:

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Yours faithfully,
For the Commission

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