EUROPEAN COMMISSION

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PUBLIC VERSION

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Subject: State Aid SA.62242(2021/N) – Greece
Prolongation of the Hercules scheme

Excellency,

1. PROCEDURE

(1) By its decision of 10 October 2019 in State aid case SA.53519(2019/N) ("the original decision")[1], the European Commission ("the Commission") decided that the Greek guarantee scheme to support the securitisation of non-performing loans ("NPLs") ("the Scheme", also called "Hercules") did not constitute State aid. The Scheme, notified by Greece for reasons of legal certainty, had a duration of 18 months.

(2) Following pre-notification contacts, on 12 March 2021, Greece notified to the Commission – for reasons of legal certainty – a prolongation of the aid-free Scheme for a period of 18 months. On 18 March 2021, Greece provided further documents to supplement the notification.

(3) By letter dated 17 March 2021, Greece exceptionally agreed to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union

1 OJ C 388, 15.11.2019, p. 2.

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("TFEU") in conjunction with Article 3 of Regulation 1/1958[2] and to have the present decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED SCHEME

(4) The Scheme, in its current form, is governed by Greek law 4649/2019 initially adopted on 16 December 2019, setting out the terms and conditions under which the State guarantee as described in the original decision may be effective.

(5) A detailed description of the Scheme is provided in the original decision, in particular in recitals (5) to (7) (concerning the background of the Scheme) and recitals (8) to (25) (concerning the functioning of the Scheme and the pricing of the State guarantee) of the original decision as well as in Annex 1.

(6) The budget envisaged by Greece for the notified prolongation of the Scheme is EUR 12 billion (estimated overall notional amount of the guarantees).

Use of the Scheme

(7) Between 10 October 2019 and 12 March 2021, all four systemic Greek banks have submitted applications for a State guarantee under the Scheme.

(8) Eurobank transferred NPLs (with a gross and net book value of EUR 7,506 million and EUR 3,886 million respectively) to three securitisation vehicles at a transfer value of EUR 3,874 million. On 25 February[3] 2020, Eurobank applied for a State guarantee under the Scheme in respect of the vehicles' EUR 2,409 million senior notes. On 5 June 2020, Eurobank sold 50.1% of the junior notes and 20% of the mezzanine notes of the vehicles to a private investor (and transferred the remaining mezzanine notes to its shareholders). On 23 July 2020, Eurobank received the guarantee[4], which entered into force on 25 February 2021.

(9) For the other applications to the Scheme submitted before 9 April 2021, the respective processes are still ongoing. The guarantees granted for those applications, subject to their approval, will be covered by the initial budget, provided for in the original decision.

(10) In the regular reporting, covering so far the period until 30 September 2020, the monitoring trustee considered that the usage of the scheme appeared to be in line with the safeguards detailed in the original decision.

New elements in the notified prolongation of the Scheme

(11) The Greek authorities have notified an 18-month prolongation of the Scheme with a new budget of an overall notional amount of guarantees up to EUR 12 billion. All other associated commitments remain identical to those described in the

[2] OJ 17, 6.10.1958, p. 385.
[3] 15 May 2020 for the third securitisation vehicle Cairo III.

[4] Date of the Ministerial Decree. Ministerial Decisions N. 2/29810/0025; 2/30953/0025; and 2/29811/0025, of 30 July 2020 (GG B' 3145).

original decision (recitals (27) – (37) of the original decision). There are only limited changes in the implementing details of the Scheme, which are described hereafter.

(12) First, the Greek authorities have submitted an update of the Spread Ratio Factor, described in recital (24) of the original decision. While the calculation methodology is unchanged, the new value is set at 56.9%[5] for the duration of the prolongation of the Scheme to reflect the current market environment.

(13) Second, the Greek authorities have clarified the functioning of the Scheme as follows: (i) as stated to in recital (19) of the original decision, the reference to "actual recoveries" is to be understood as "actual cumulative recoveries" and the reference to "projected recoveries" as "projected recoveries under the business plan as assessed by the credit rating agency"; and (ii) the business plan as assessed by the credit rating agency is the relevant plan that has to be taken into account for the purpose described in recital (20) of the original decision, which is also in line with the description in its recital (19).

(14) With the exception of the limited amendments set out in recital (12) and (13) above, all other parameters described in section 3.1 and 3.2 of the original decision remain unchanged.

(15) The prolongation of the Scheme will be implemented by a Ministerial Decision, as provided for in Article 6, paragraph 3 of the Greek law 4649/2019.[6]

3. POSITION OF GREECE

(16) Greece requests a prolongation of the Scheme by 18 months, renewable upon notification. It submits that any guarantee provided under the Scheme will continue to be provided at market terms and therefore will not contain State aid within the meaning of Article 107(1) TFEU. All parameters are set to be reviewed after that period in order to be able to ensure the continued aid-free character of the Guarantee scheme.

(17) The Greek authorities note that as a result of the introduction of the Scheme, the NPL ratio of the Greek banks is projected to decline from 43% at the end of 2019 to 27% at the end of March 2021. The Scheme has strongly contributed to the reduction of the stock of NPLs that are burdening the Greek banks, even under the unprecedented circumstances created by the COVID-19 outbreak. They therefore envisage increasing the budget of the Scheme and proposing its prolongation to support the banks in their strategies to further reduce the stock of NPLs, as also requested by the banks' regulators.

(18) Greece submitted commitments ("the Commitments") relating to the Scheme which are listed in Annex 2 to the present decision. The Commitments are an integral part of the Scheme as described in Annex 1 to the present decision. The

[5] The calculation provided by the Greek authorities shows that the Spread ratio is 0.574, 0.565 and 0.569 when calculated respectively with a one-year, six-month and three-month time horizon.

[6] The Commission recalls that the present decision can provide legal certainty only if all the elements in the notification, with the aim to ensure the no-aid character of the Scheme, are implemented.

content of the two annexes was described in the original decision and remains unchanged in substance except for the amendments mentioned in recitals (12) and (13) above.

4. ASSESSMENT OF THE MEASURE

(19) Greece has notified the measure to the Commission as no aid for reasons of legal certainty. The Commission therefore has to assess whether the Scheme described in Section 2 is free of State aid.

(20) In the present decision, the Commission will limit its assessment to the new elements introduced in the notification for the first prolongation period, as described in recitals (12) to (13) and to the usage of the Greek sovereign CDS as the benchmark as envisaged in footnote 28 of the original decision. All the other elements of the Scheme, including the pricing mechanism for the guarantee, remain unchanged and the Commission has already assessed them in Section 5 of the original decision and that original assessment remains valid.

(21) As regards the update of the Spread Ratio Factor, which is used in the calculation of the market conform guarantee fee, the Commission considers that this update, described in recital (12), ensures the continued alignment of the fee to market conditions, thereby contributing to the aid-free character of the Scheme.[7]

(22) Also, the precise definitions of the actual recoveries and the projected recoveries, as described in recital (13) above, serve as a clarification which a market economy guarantor would welcome: it gives clarity to the implementation of the scheme avoiding misinterpretations that could undermine the wish of private investors to invest in the securitisations' notes. The Commission thus considers that such changes are clarifications in legal terminology and do not affect the substance of the functioning of the Scheme.

(23) As regards the usage of the Greek sovereign credit default swap ("CDS") as benchmark, the Commission observes that the assessment of the original decision remains valid, since there is still a lack of a liquid CDS market for corporate bonds.[8]

(24) The Commission concludes that the above technical amendments do not alter the fact that the State guarantee under the Scheme is provided at market terms and does not confer an advantage to participating banks and their securitisation vehicles. Correspondingly, the Commission concludes that the Scheme, as amended by the notified changes, is free of aid.

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[7] The Commission notes that the sovereign rating of Greece has improved since October 2019. The Commission will reassess, upon a possible prolongation of the Scheme, whether the Adjusted Spread Ratio Factor (as explained in Annex 1) remains the most appropriate correction mechanism for differences between the rating of the benchmark and the guaranteed senior notes, as explained in recital (24) of the original decision.

[8] The Commission will reassess, upon a possible prolongation of the Scheme, whether the Greek sovereign CDS remains the most appropriate benchmark and there is still no liquid CDS market in Greece for corporate bonds.

5. CONCLUSION

The Commission has accordingly decided that the measure notified by Greece, including the commitments made by that Member State, does not constitute aid within the meaning of Article 107(1) TFEU.

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Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION

Annex 1 – Description of the Scheme

1. Description of the securitisation structure

(1) This scheme ("the Guarantee Scheme") is voluntary and open to all banks. The Guarantee Scheme's operation is based on individual banks seeking to or having set up a securitisation structure as described in the conditions of the Guarantee Scheme, and asking for a State guarantee on the senior tranche as per conditions described in section 3.

(2) The State guarantee on the senior tranche will become effective only after the originating bank has sold to private investors at least 50% plus 1 shares of the junior tranches at a positive value and has sold a sufficiently large part of the junior and mezzanine tranches at positive value to achieve accounting de-recognition of the sold NPLs. Neither mezzanine nor junior notes will benefit from a State guarantee. No State, State-related body or company can buy junior or mezzanine notes.

(3) NPLs on the originator's balance sheet are securitised at no higher than the current Net Book Value (NBV, gross book value minus current provisioning level).

(4) The State guarantee on the senior tranche will become effective only after the originating bank has appointed as servicer in the context of the securitization, either (i) an independent NPL servicer or (ii) a captive recovery unit of the originating bank, upon the disposal of such unit to private investors. The holders of the junior notes and/or the mezzanine notes have the right to appoint a different servicer of the NPLs subject to confirmation of non-negative rating action by the Rating Agencies.

(5) The necessary financing is raised through issuing senior and junior or senior, mezzanine and junior of notes.

(6) Senior notes rank above mezzanine in the waterfall structure and benefit from a State guarantee. Mezzanine notes rank between senior and junior. The originator will sell to private investors an amount of junior and mezzanine notes sufficient to achieve accounting de-recognition of the securitised non-performing loans. Neither mezzanine nor junior notes will benefit from a State guarantee. No State, State related body or company can buy mezzanine notes.

(7) Both senior and mezzanine notes have a floating coupon and flexible redemption structure to pass on cash flows from the securitised NPL portfolio. Coupons are paid quarterly, semi-annually or annually based on the remaining outstanding notional of the notes. Appropriate hedging arrangements could be negotiated between the issuer and suitable market counterparties - in accordance with rating agency criteria - to cover any interest rate mismatch between assets and liabilities.

(8) Junior notes rank lowest, are fully participating in gains and losses, do not benefit from a State guarantee and are initially underwritten by the issuer. They do not give right to cash flows until the notional of senior and mezzanine tranches are repaid in full. They will be sold to private investors at least in an amount sufficient for the originator to achieve accounting de-recognition of the securitized non-performing loans. No State, State-related body or company can buy the junior notes.

(9) To manage potential liquidity mismatches between cash flows from the underlying NPL portfolio and contractually obligatory coupon payments, the securitisation structure

will seek a liquidity line (from either originator or any other commercial bank) or by creating a liquidity buffer in amount sufficient to achieve the minimum required rating. This liquidity line will be serviced senior to all notes.

(10) Correspondingly, cash flows from the underlying NPL portfolio and the swap counterparties will be used for payments in the following waterfall order:

Obligatory regular payments

a. Fees to the servicer

b. Interest on the liquidity line

c. Guarantee fees on the senior notes

d. Payments to the swap counterparties

e. Interest on the senior notes

f. Replenishment of the liquidity line (if previously utilized).

Regular payments to mezzanine noteholders which may be subject to performance triggers and deferral provisions.

g. Interest on the mezzanine notes (if mezzanine notes present)

Repayment starting at the highest seniority still outstanding

h. Repayment in full of senior notes

i. Repayment in full of mezzanine notes (if mezzanine notes present)

j. Payout on junior notes

(11) Performance triggers for the NPL servicer in charge of working out the NPLs, at the moment that mezzanine tranche interest payments are due, can foresee that the payment of mezzanine tranche interest is postponed. The latter payment will be resumed only at the next moment at which mezzanine tranche interest is due, and actual cumulative recoveries have caught up with projected recoveries under the business plan as assessed by the credit rating agency, or when the senior tranche has been fully repaid.

(12) A part of the fees to be paid to the NPL servicer can be conditional upon performance targets. The payment of the deferred fees will be resumed only when actual cumulative recoveries have caught up with projected recoveries under the business plan as assessed by the credit rating agency, or when the senior tranche has been fully repaid.

(13) The initial appointed NPL servicer can be replaced by another NPL servicer in case the State guarantee is called upon and if, at two consecutive interest payment dates, the NPL servicer has cumulatively recovered less than the cumulative NPL recoveries projected in the business plan as assessed by the credit rating agency. In case of such a replacement, no penalty or compensation is due to the replaced NPL servicer. The new NPL servicer cannot be linked to the replaced servicer. Furthermore, the replaced servicer is obliged to cooperate in good faith to ensure a swift handover. In addition, the

originating bank needs to demonstrate that it made the necessary preparations to enable a rapid and effective replacement.

(14) The Asset Protection Scheme, its implementation and the various specificities in its set up, in particular the rating requirements and its application, will be subject to regular monitoring by a monitoring trustee, to be appointed by the Commission upon a proposal by the Greek Ministry of Finance.

(15) The performance of the NPL servicer shall be monitored also by the supervisor (the Bank of Greece) and shall be reported to the General Accounting Office and the Public Debt Management Office, against its projected cash flows, in order to alert against eventual delays in payments or a potential State guarantee call.

2. Rating

(16) The senior notes have a target rating of BB-, Ba3, BB-, BBL or higher, taking into account the cost of the guarantee but not the protection of the State guarantee. The setup of the securitisation structure will be calibrated such that the target rating on the senior notes is achieved. The rating and the calibration is performed by an External Credit Assessment Institution ("ECAI") approved by the ECB as of 12 March 2021 (Moody's, Fitch, S&P and DBRS Morningstar). Should two ratings be required under the applicable regulation, the second rating can be performed by a rating agency registered pursuant to Regulation 1060/2009[9]. A guarantee under the Scheme can be provided only if both ratings are not lower than a BB- (or equivalent) rating. For the purpose of Section 3, only the lower of the two ratings is considered.

3. Pricing of the State guarantee on senior notes

(17) The pricing of the State guarantee on senior notes will be on market terms in order to ensure the aid-free nature of the Scheme. It will include market-conform remuneration for the risks taken by the State and depending on the maturity of the notes. The market benchmark is given by the Hellenic Republic benchmark CDS (the "Benchmark").

For the Benchmark price, the average over the last 2-month of mid-prices at the time of the transaction is taken from Bloomberg.

A basic step up fee is charged on the guarantee in the following way:

i. in years 1, 2 and 3, the price of the 3y Benchmark CDS;
ii. in years 4 and 5, the price of the 5y Benchmark CDS;
iii. in year 6 and 7 the price of the 7y Benchmark CDS
iv. Thereafter, the price of the 10y Benchmark CDS.

An additional penalty is applied in the following way:

- in years 4 and 5, if the senior tranche has not been repaid in full by the end of year 3, a penalty charge is added to the basic fee corresponding to making up the

[9] Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, OJ L 302, 17.11.2009, p. 1–31.

difference in payments from a 5y Benchmark CDS held over the full period of years 1 to 5 compared to the actual payments made in years 1 to 3;

- in years 6 and 7, if the senior tranche has not been repaid in full by the end of year 5, a penalty charge is added to the basic fee corresponding to making up the difference in payments from a 7y Benchmark CDS held over the full period of years 1 to 7 compared to the actual payments made in years 1 to 5;
- in years 8, 9 and 10, if the senior tranche has not been repaid in full by the end of year 7, a penalty charge is added to the basic fee corresponding to making up the difference in payments from a 10y Benchmark CDS held over the full period of years 1 to 10 compared to the actual payments made in years 1 to 7
- The additional penalty calculations are made on the basis of the following assumptions (a) a discount rate of 4% and (b) a linear repayment schedule of the senior tranche to be fully paid off after year 10 (this assumption implies a yearly repayment rate of 1/10).

Following the application of the additional penalty, this being the "Pre-Adjustment Fee", in order to define the applicable fee for each year, the fee is further adjusted by an adjustment factor. The adjustment factor takes into account the difference in the rating class of the senior tranche and of the average rating of the Benchmark (the "Adjusted Spread Ratio Factor").

The Spread Ratio Factor is calculated as an average of the difference of a BB Index and a B Index over swap rate; such component is fixed at the time of the approval and is valid for the entire duration of the Scheme. Such figure is then linearly pro-rata adjusted for the effective Benchmark average rating, intended as the 2-months average of the rating assigned by the four ECAI as per (16), at the time of the transaction, and, eventually, further adjusted for the rating of the guaranteed senior tranche at the time of the transaction thus obtaining the Adjusted Spread Ratio Factor.

The cost of the guarantee is the fee applied and paid on the outstanding amount of senior tranche equal, as a percentage of the guaranteed amount, to the Pre-Adjustment Fee multiplied by the Adjusted Spread Ratio Factor (the "Guarantee fee").

4. Approval and Implementation

(18) The approval of the Guarantee Scheme as no-aid guarantee scheme via a Commission decision will be given for 18 months, implying an 18-month period during which the guarantees can be granted, renewable upon notification. All parameters are set to be reviewed after that period in order to be able to ensure the continued aid-free character of the Guarantee scheme.

Annex 2 – Commitments of the Hellenic Republic

Greece hereby provides the following Commitments (the "Commitments") which are integral part of the Guarantee Scheme as described under Annex 1 - Description of the Scheme.

(1) Greece commits to implement the Guarantee Scheme at the terms described under Annex 1.

(2) Greece commits that the rating and the calibration of the notes structure, i.e. the thickness of the different tranches of the securitisation notes, will take into account at least the following factors:

   a. The expected cash flows and their timings coming from the NPL servicing such as recovery payments, sales proceeds, etc.;

   b. Any cashflows received or paid under the hedging agreements;

   c. Fees for the servicing of NPLs;

   d. Contractual payment obligations on the issued notes;

   e. Guarantee fee on the guaranteed notes;

   f. Any other costs incurred by the securitisation structure in its normal business operations;

   g. The thickness of the junior tranche (and if present the mezzanine tranche).

(3) Greece commits to provide to the rating agency full access to at least the following information:

   a. Qualitative and quantitative information about the selected NPL servicer including:

      i. Track record as successful private NPL servicer in Greece (aspects considered: successful, present in Greece, unproven/without track record, no specialist);

      ii. Management team present on the specific deal;

      iii. Fee structure.

   b. Loan-by-loan information on the underlying NPL portfolio including the full loan documentation and contractual documents, including the vintage of the NPL cohorts and related work-out times under judicial procedures;

   c. The operational setup of the securitisation vehicle including all costs;

   d. The guarantee pricing formula to include related fee payments in the cash flow model.

(4) Where information is not available, assumptions will be made on a prudent basis.

(5) Greece commits that all information reflecting specificities of the NPL categories will be made available to the rating agency.

(6) Greece commits to ensure that the Guarantee Scheme, its implementation and the various specificities in its setup, in particular the rating requirements and its application, will be subject to regular monitoring by a monitoring trustees, to be appointed by the Commission upon proposal by Greece.

(7) Greece will make available to the monitoring trustee a report setting out how the different criteria and conditions set out above have been taken into account and contributed to the final rating result.

(8) Greece will ensure that both the originating banks and the rating agency will provide the necessary access to information for the monitoring trustee to enable it to discharge its monitoring duties.

(9) Greece commits that for each individual guarantee application under the Guarantee Scheme, the pricing of the guarantee fee will be calculated based on the formula provided in-here applied at the time of the granting of the guarantee.

(10) Greece commits to limit the window for granting guarantees under the Scheme for a period of 18 months following the Commission approval of the Guarantee Scheme as a no-aid guarantee scheme with an overall notional amount of guarantees estimated up to EUR 12 billion.

(11) If a renewal of the scheme is notified, Greece commits to provide a report on the usage of the scheme together with the notification for renewal.