EUROPEAN COMMISSION

Brussels, 28.06.2010
C(2010)4399 final

Subject: State Aid N 225/2010 – Hungary
Prolongation of the Hungarian liquidity scheme for banks

Sir,

I. PROCEDURE

1. The Hungarian authorities notified a liquidity scheme (hereinafter "the scheme") on 9 November 2009.
2. On 14 January 2010 the Commission approved the scheme on the basis Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU) in State aid case NN68/2009 until 30 June 2010[1].
3. On 7 June 2010, Hungary notified a request for the prolongation of the scheme until 31 December 2010. Additional information and commitments were provided on 16 June 2010. Hungary accepts that the decision exceptionally be adopted in the English language.

II. DESCRIPTION

4. In response to the ongoing exceptional turbulence on the financial markets, Hungary enacted a law which provides for liquidity support in the form of loans to financial institutions. The scheme is based on Article 5 of Act IV of 2009 published in the Official Gazette ("Magyar Közlöny") No. 2009/28 on 10 March 2009.
5. Under the Act, the Minister responsible for public finances, acting through ÁKK Zrt. (Government Debt Management Centre) is empowered to conclude loan contracts with financial institutions.
6. The Hungarian authorities now seek to prolong the existing scheme by six months, i.e. until 31 December 2010.
7. In line with point 30 of the Commission decision of 14 January 2010, Hungary submitted information on the operation of the scheme to date.

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1 OJ C 47, 25.02.2010, p. 16.

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8. Since its inception in March 2010, the Hungarian authorities have concluded loan agreements with three banks under the scheme: OTP Bank Nyrt. (hereinafter: "OTP"), FHB Jelzálogbank Nyrt. (hereinafter: "FHB") and MFB Zrt./Eximbank Zrt. (hereinafter: " MFB group").

9. The loan agreement with OTP was concluded on 25 March 2009 for a total of HUF 400 billion (EUR 1,453 million). OTP repaid HUF 200 billion on 5 November 2009 and the remaining HUF 200 billion was paid back on 19 March 2010.

10. The loan agreement with FHB was concluded on 25 March 2009 for a total of approximately HUF 120 billion (EUR 436 million), with a maturity date of 11 November 2012.

11. Finally, the loan agreement with MFB Group was concluded on 14 April 2009 for a total of approximately HUF 170 billion (EUR 618 million), with a maturity date of 11 November 2012.

III. POSITION OF HUNGARY

12. The Hungarian authorities claim that the scheme is compatible with the internal market because it is still necessary to remedy a serious disturbance in the Hungarian economy pursuant to Article 107(3)(b) TFEU.

13. The Hungarian authorities are of the view that it is necessary to extend the deadline for granting loans until 31 December 2010, since the original goals of the measure are still valid. The Hungarian Central Bank in a letter of 3 June 2010 confirmed the necessity of the continuation of the scheme for reasons of financial stability.

14. Hungary undertakes to maintain the commitments made since the introduction of the liquidity scheme.

15. In addition, Hungary undertakes to adjust the IBOR-based pricing formula of the loans upwards, as from 1 July 2010, by
    - 20 basis points for banks with a rating of A+ or A[2],
    - 30 basis points for banks rated A-[3], and
    - 40 basis points for banks rated below A-. Banks without rating will be considered to belong to the category of banks with a BBB rating[4].

16. Furthermore, Hungary undertakes to present a viability review for any bank that concludes a new loan agreement after 1 July 2010 and for which the total outstanding amount (including liquidity support provided before 1 July 2010 and that provided under the new agreement) exceeds 5% of total liabilities of the respective bank and EUR 500 million.

17. Qualifying loan agreements and corresponding viability reviews will be communicated to the Commission within three months of the granting of the liquidity support. The viability review will comply with the principles set out in the Restructuring Communication (points 9 to 21)[5]. In particular, it will cover the solidity of the funding capacity of the bank concerned; where necessary and in any event where requested by the Commission in case of doubt, a liquidity stress test will be carried out. No separate viability review has to be presented for banks that are already

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[2] Or A1 and A2 depending on the rating system employed.

[3] Or A3 depending on the rating system employed.

[4] In the case of divergent assessments by different rating agencies the relevant rating for the calculation of the fee increase should be the higher rating. The material time for the rating in the determination of the fee is the day on which the loan agreement is concluded.

[5] OJ C 195, 19.8.2009, p.11.

in restructuring or obliged to present a restructuring plan or subject to a pending viability review at the time new liquidity support is granted.

18. In addition to the existing commitments concerning reporting obligations, Hungary undertakes to submit to the Commission a concise mid-term review on the operation of the liquidity scheme by 15 October 2010 at the latest.

IV. ASSESSMENT

19. In its decision of 14 January 2010, the Commission concluded that the scheme constitutes aid to the credit institutions concerned pursuant to Article 107(1) TFEU. However it found that the measures were compatible with the internal market under Article 107(3)(b) TFEU, because they aimed to remedy a serious disturbance in the Hungarian economy. To this end, the Commission had assessed the appropriateness, necessity and proportionality of the measure.

20. The Commission observes that the prolongation of the scheme is a response to the continuing financial difficulties that Hungary faces. As markets have not returned to normal functioning and as the measure is necessary to ensure financial stability as confirmed by the Hungarian Central Bank, the Commission considers that the prolongation of the scheme for a further six months is appropriate and necessary to remedy a serious disturbance of the Hungarian economy.

21. The Commission considers that the limitations set out in its decision of 14 January 2010, which continue to apply, provide sufficient safeguards to avoid undue distortions of competition.

22. Looking forward, in assessing the request for the prolongation of the liquidity scheme, the Commission has to balance its positive effects for financial stability with the distortions of competition and the delay in the return to a normal functioning of the financial markets that the prolongation entails. Liquidity schemes should contain minimum exit incentives, and a gradual alignment to market conditions should take place in order to minimise negative spill-over effects on competitors and other Member States.

23. Within this context, the Commission notes positively that Hungary undertakes to adjust the pricing formula of the scheme as from 1 July 2010, and that the resulting fees are higher than the new conditions set by the Commission[6].

24. Furthermore, the Commission welcomes that Hungary undertakes to present a viability review for any bank that is granted liquidity support on new or renewed liabilities as from 1 July 2010 for which at the time of the granting of new liquidity support the total outstanding liabilities (including liquidity support accorded before 1 July 2010) exceed 5% of total liabilities and EUR 500 million.

25. The Commission also welcomes that Hungary undertakes to submit a concise mid-term review on the operation of the liquidity scheme by 15 October 2010 at the latest.

26. As regards the combination of this liquidity scheme with other aid measures, as indicated in the Annex to the Restructuring Communication[7], 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).

[6] http://ec.europa.eu/competition/state_aid/studies_reports/phase_out_bank_guarantees.pdf

[7] OJ C 195, 19.08.2009.

Accordingly, once a Member State is under an obligation to submit a restructuring plan for a certain aid beneficiary, 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 this end an individual *ex ante* notification is necessary.

27. Furthermore, the Commission recalls that based on point 16 of the Restructuring Communication, if aid not initially foreseen in a notified restructuring plan is necessary for the restoration of viability, this additional aid cannot 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.

V. DECISION

The Commission concludes that the notified prolongation of the Hungarian scheme does not alter its previous assessments in the decision of 14 January 2010 in State aid case NN 68/2009 that the scheme is compatible with the internal market. The Commission has accordingly decided not to raise objections.

The Commission recalls that, according to the commitment of the Hungarian authorities, the measure is limited in duration until 31 December 2010. The Commission notes that Hungary exceptionally accepts that the decision be adopted in the English language.

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http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Your request should be sent by registered letter or fax to:

European Commission
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State Aid Greffe
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Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President of the Commission