EUROPEAN COMMISSION

Brussels, 9.7.2012
C (2012) 4750 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

WORKING LANGUAGE

This document is made available for information purposes only.

Subject: State Aid SA.34811 (2012/N) – Poland
Sixth extension of Polish Bank Guarantee Scheme

Sir,

I Procedure

1. On 7 April 2009 Poland notified a support scheme for banks' funding in Poland (hereinafter the "scheme"), which was approved by the Commission in its decision of 25 September 2009 in State aid case N 208/2009 (hereinafter "original decision")[1].

2. On the basis of subsequent notifications, the Commission approved the prolongation of the scheme in its decisions of 9 February 2010 in State aid case N 658/2009[2], 29 June 2010 in State aid case N 236/2010[3], 16 December 2010 in State aid case SA.31923 (N 533/2010)[4],

[1] OJ C 250, 20.10.2009, p. 1.
[2] OJ C 57, 9.03.2010, p. 6.
[3] OJ C 205, 29.07.2010, p. 2.

Jego Ekscelencja
Pan Radoslaw SIKORSKI
Minister Spraw Zagranicznych
Al. Szucha 23
PL-00 - 580 Warszawa

28 June 2011 in State Aid case SA.33008 and SA.32946[5] and on 8 February 2012 in State Aid case SA.34081[6].

3. On 14 May 2012 Poland notified an increase in the budget of the existing scheme. The Commission requested additional information on 25 May 2012. Poland replied on 1 June 2012.

4. On 15 June 2012, as an extension to the notification of 14 May 2012, Poland notified a sixth prolongation of the scheme until 31 December 2012. Additional information was submitted by Poland on 27 June 2012.

II Description of the scheme

5. In response to the exceptional turbulences in the financial markets, Poland brought forward a measure, which aims at reinforcing stability in the Polish financial markets by addressing short- and medium-term financing needs of financial institutions.

6. The scheme specifies six categories of financial institutions established in Poland that are eligible to benefit from the scheme, namely: banks registered in Poland, registered insurance undertakings, brokerage houses, investment funds, pension funds and cooperative savings and credit institutions. To be eligible, beneficiaries must be considered as solvent by the Polish authorities.

7. The scheme, which is described in detail in the original decision, allows essentially for provision of State guarantees for debt issued by banks or by cooperative savings and credit institutions[7] and liquidity measures by way of borrowing or purchasing Treasury bonds on preferential terms. The remuneration for the latter shall remain above the Lombard interest rate[8] and below the level of the doubled Lombard interest rate. The liabilities arising from the State support granted under the scheme are to be collateralised to the level, which would ensure the full repayment of the principal and the interest.

8. Poland committed 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. The scheme has not been used.

9. All conditions of the scheme remain unchanged and all the commitments made in relation to the scheme as set out in decisions of 25 September 2009 in State aid case N 208/2009, 9 February 2010 in State aid case N 658/2009, 29 June 2010 in State aid case N 236/2010, 16 December 2010 in State aid case SA.31923 (N 533/2010), 28 June 2011 in State aid case SA.33008 and SA.32946 and finally of 8 February 2012 in State aid case SA.34081 continue to apply. In summary, those commitments are as follows:

   - to grant aid measures under the support scheme only to solvent financial institutions which meet Polish capital and prudential requirements;

---

4 OJ C 29,29.01.2011, p. 5.

5 OJ C 237, 13.8.2011, p. 3.

6 Not yet published.

7 Spółdzielcze kasy oszczędnościowo kredytowe" – credit unions active in Poland.

8 Lombard interest rate is the rate charged to banks by the Central Bank for collateralized loan obligations. For detail see the original decision. Since 10 May 2012 the Lombard interest rate has been 6.25%.

- to grant the guarantees under the support scheme only for new issues of commercial bank senior debts (subordinated debt is excluded);
- to provide guarantees on debt instruments with maturities from three months up to five years (for one-third of the debts guaranteed for any participating beneficiary, the maturity can be extended to five years) and to provide support related to Treasury bonds for up to three years;
- to attach to the support agreements a ban on advertisements referring to the support provided by the State Treasury;
- to issue the State Treasury bonds under the scheme on the same conditions as State Treasury bonds issued at the same time outside the scheme;
- to submit an individual notification if a restructuring plan has already been submitted that did not foresee the envisaged liquidity guarantee or liquidity measure;
- to submit individual restructuring/liquidation plans, within six months, for banks that default on their liabilities and/or which cause the guarantee to be called upon;
- to provide within six months individual restructuring/liquidation plans, for banks that default on their liabilities from the support agreement on State Treasury bonds-related support;
- to ensure that fees on the guarantees and reporting obligations are in line with the applicable EU legislation. In addition, Poland committed to complement its reports on the operation of the scheme with updated available data on the cost of comparable (nature, volume, rating, currency, etc.) non-guaranteed and guaranteed debt issuances;
- to present a viability review for every beneficiary that is granted guarantees on new liabilities as from 1 July 2010 and for which at the time of the granting of new guarantees the total outstanding guaranteed liabilities (including guarantees accorded before 1 July 2010) exceed both a ratio of 5% of total liabilities and the total amount of EUR 500 million.

10. The scheme approved has not been modified except for the increase in available budget from PLN 40 billion to PLN 160 billion.
11. The pricing of the guarantee fee has not been changed and is calculated in accordance with the 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 ("the 2012 Prolongation Communication"[9]).

III Position of Poland

12. In line with the original decision, Poland accepts that the scheme constitutes State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU").
13. The Polish authorities intend to increase the budget of the scheme from PLN 40 billion to PLN 160 billion and seek the prolongation of the scheme until 31 December 2012.

[9] OJ C 356, 6.12.2011, p. 7.

14. Poland argues that it is necessary in order to ensure adequate financial means available for the potential usage of the scheme. Poland notes that according to the Polish budgetary law for 2012, the total ceiling for State guarantees has been increased in Poland to PLN 200 billion, it is therefore justified to adequately increase the budget available for the Support scheme for banks' funding in Poland. The need to increase the budget has also been confirmed by the Polish Central Bank.

15. Although the scheme has not been used to date, the Polish authorities submit that it should remain in place as it has a positive effect on financial institutions and their clients. More specifically, it ensures the stability of the Polish financial sector, which still faces the increased volatility of global financial markets and the uncertainty related to the extent and pace of the economic recovery. Therefore, in order to avoid any negative spill-over effects to the financial sector, the scheme should remain available. That justification has been supported by a letter of 8 June 2012 by the Polish Central Bank.

16. Poland commits to maintain the commitments made since the introduction of the support scheme and confirms that all other conditions as defined by the Commission decisions of 25 September 2009, 9 February 2010, 29 June 2010, 16 December 2010 28 June 2011 and 8 February 2012, remain unchanged.

17. To enable the Commission to assess the application in practice of the revised pricing applicable from 1 January 2012, Poland provided an updated estimation of the costs applicable to banks eligible to benefit from those guarantees, based on an application of the formula using recent market data (as presented in the annex). Furthermore, Poland 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.

IV Assessment

18. In its decision of 25 September 2009, the Commission concluded that the scheme constitutes State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU"), this assessment has not changed. In the same decision the Commission found that measure compatible with the internal market under Article 107(3)(b) TFEU, because it was apt to remedy a serious distortion of the Polish economy.

19. The Commission first notes that Article 107(3)(b) TFEU remains in principle applicable in the financial sector[10]. The Commission considers that the exceptional circumstances at the origin of the notified measures still persist and therefore recognises the need for the prolongation of such scheme. In particular, the exacerbation of tensions in sovereign debt markets that has taken place in 2011 has put the banking sector under increasing pressure, particularly in terms of access to term funding markets.

20. The Commission also observes that the extension of the scheme is a response to the continuing financial difficulties that Poland, as most Member States, continues to experience. Since the objective of the measure is to provide short- and medium-term financing to financial institutions which might have difficulties to obtain funds on the financial markets, it supports the retention of the scheme as long as the global financial crisis continues. That analysis was confirmed by the Central Bank of Poland. The Commission therefore considers

[10] 2012 Prolongation communication.

that the extension of the scheme is appropriate to remedy a disturbance of the Polish economy.

21. As regards the increase in the budget the Commission notes that the level of the scheme's budget has remained unchanged from the beginning of the crisis, i.e. from the original decision approving the scheme at the end of 2009. Taking into account the continuous difficulties on the European financial markets the Commission considers that it is appropriate to increase the budget to adjust it to potential needs of the banking sector in Poland.

22. The Commission notes secondly that all major terms and conditions for the scheme approved on 25 September 2009 and prolonged on 9 February 2010, 29 June 2010, 16 December 2010, 28 June 2011 and 8 February 2012 continue to apply, including those related to presenting every six months a report on the operation of the scheme. The Commission also notes that Poland has committed to communicate to the Commission, within three months following each issue of guaranteed bonds, the actual guarantee fee charged in relation to each issue.

23. Those reports will allow the Commission to assess the appropriateness, necessity and proportionality of possible further extensions of the scheme beyond 31 December 2012 and the conditions for such extensions.

24. In line with the Commission's decisional practise the scheme should be extended until 31 December 2012. Any further extension will require the Commission's approval and will have to be based on a review of the developments in financial markets and the scheme's effectiveness.

25. Therefore, the scheme remains an appropriate, necessary and proportionate measure to remedy a serious distortion of the Polish economy and does not alter the Commission's previous assessment in the decision of 25 September 2009 and the prolongation decisions of 9 February 2010, 29 June 2010, 16 December 2010, 28 June 2011 and 8 February 2012.

26. On the basis of those considerations, the prerequisites for the compatibility of guarantee and liquidity schemes that have been established by the Banking Communication[11] and the Commission's subsequent decisional practice are met. The notified extension therefore complies with the requirements set out above and is compatible with the internal market pursuant to Article 107(3)(b) TFEU.

Decision

The Commission concludes that the notified extension of the Support scheme for Polish banks does not alter its previous assessments that the scheme is compatible with the internal market for the period until 31 December 2012. The Commission has accordingly decided not to raise objections.

[11] 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.

If this letter contains confidential information which should not be published, 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 specifying the relevant information 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

Annex

An indicative fee (estimate) for
- guarantees covering debt with a maturity of one year or more
- for financial institutions envisaged, given certain conditions, to be eligible for the scheme,
- based on an application of the formula indicated in 2012 Prolongation Communication
- using recent market data.[12]

A. For the banks with an external rating

Bank name	Guarantee fee (in bp)
Powszechna Kasa Oszczędności Bank Polski SA – PKO BP S.A.	[70-85]*
Pekao Bank Hipoteczny S.A.	[70-85]
ING Bank S.A.	[70-85]
Getin Noble Bank S.A.	[80-95]
Credit Agricole Bank Polska S.A.	[80-95]
BRE Bank Hipoteczny S.A	[80-95]
Bank Zachodni WBK S.A.	[80-95]
Bank Ochrony Środowiska S.A.	[80-95]
Bank Gospodarstwa Krajowego	[70-85]
Bank Gospodarki Żywnosciowej S.A.	[80-95]
Bank BPH S.A.	[80-95]
Bank Millennium	[80-95]
Kredyt Bank S.A.	[80-95]
BRE Bank S.A.	[70-85]
Bank Handlowy w Warszawie S.A.	[70-85]
Bank Polska Kasa Opieki SA-Bank Pekao S.A.	[70-85]

B. For the banks without any external rating or CDS data

[12] The reference period is 15/05/2009-15/05/2012. For that period following parameters of the formula were derived:

- (parameter A) The median value of five-year CDS spreads for the rating category of the bank concerned, based on a representative sample of large banks in the Member States in the relevant rating bucket, e.g. sample of A-rated ("A-rating bucket") or BBB-rated or below banks ("BBB-rating or below"). The derived value for the banks of the A-rating bucket is 151,7 bp, for the banks of the BBB-rating and below bucket: 219.2 bp;
- The median iTraxx Europe Senior Financials five-year index (parameter B): 146.5 bp;
- The median five-year senior CDS spread of all Member States (parameter C): 124.8 bp;
- The median five-year senior CDS spread of Poland (parameter D): 145.7 bp.

Based on the above data, the fee applicable for the banks with the reference rating A is [70-85] bp, for the banks rated BBB or below or without any external rating, the fee applicable under the scheme is estimated at [80-95] bp.

* Confidential information

An indicative fee (estimate) for financial institutions, which are not listed in the table above and which do not have any CDS data or an external credit rating, calculated in line with the 2011 Prolongation Communication was determined to be **[80-95] bp.**