EUROPEAN COMMISSION

Brussels, 30.7.2012
C(2012) 5448 final

Subject: State Aid SA.35144 (2012/N) – Hungary
Prolongation of the Hungarian liquidity scheme for banks

Sir,

I. PROCEDURE

(1) On 14 January 2010 the Commission approved a Hungarian liquidity scheme on the basis of Article 107(3) (b) of the Treaty on the Functioning of the European Union (TFEU) in State aid case NN 68/2009 until 30 June 2010[1] ('original decision').

(2) Prolongations of the scheme were approved on 28 June 2010 in State aid case N 225/2010[2], on 7 December 2010 in State aid case N 535/2010[3] on 23 June 2011 in State aid case SA.32994 (2011/N)[4] and on 7 March 2012 in State aid case SA.34078 (2011/N)[5].

(3) On 29 June 2012, Hungary notified a request to prolong the liquidity scheme by six months until 31 December 2012, which was withdrawn on 13 July 2012 and renotified on 16 July 2012.

(4) On 17 July 2012, Hungary submitted an updated report on the operation of the liquidity scheme.

(5) Hungary accepts that the decision will be exceptionally adopted in the English language.

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1 Commission decision C(2010) 91 final; OJ C 47, 25.02.2010, p. 16.
2 Commission decision C(2010) 4399 final; OJ C 217, 11.08.2010, p. 2.
3 Commission decision C(2010) 8810 final; OJ C 32, 01.02.2011, p. 4.
4 Commission decision C(2011) 4511 final; OJ C 236, 12.08.2011, p. 3.
5 Commission decision C (2012) 1510 final; OJ C 119, 24.04. 2012, p.3.

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II. DESCRIPTION

(6) In March 2009, 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 initial scheme and its prolongations so far are based on that law, i.e. on Article 5 of Act IV of 2009 published in the Official Gazette ("Magyar Közlöny") No. 2009/28 on 10 March 2009.

(7) The Hungarian authorities now request a further prolongation of the scheme until 31 December 2012.

(8) In its letter of 21 May 2012, the Hungarian Central Bank (MNB) confirms the necessity of the continuation of the scheme for reasons of financial stability.

(9) Due to legal amendments in the course of a process of re-codification in Hungary, the numbering the provisions of the legislation on which the scheme is based has changed. The content of the law, however, remains unchanged. The notified prolongation is now based on Article 44 (Chapter VII) of Act CXCIV of 2011 which is published in the Official Gazette No. 2011/64 of 30 December 2011.

(10) The name of the granting authority has also changed, i.e. from 'Hungarian Ministry for Finance' to 'Ministry for National Economy'. That change is also without implications for the operation of the scheme.

(11) The eligible instruments[6] under the scheme and the provided overall budget remain unchanged.

(12) The scheme is open to all credit institutions established in Hungary, including subsidiaries of foreign banks, but excluding banks operating in the form of branch offices. The eligibility of the banks is established by the MNB and the Hungarian Financial Supervisory Authority (PSZÁF). The loans are ultimately awarded by the Hungarian Ministry for National Economy on the basis of the MNB's and PSZÁF's recommendation. They are granted for a maximum of three years, while up to one-third of the total amount may be granted for a maximum of four years.

(13) In the last prolongation of the liquidity scheme approved by Commission decision of 7 March 2012[7], Hungary aligned the fees and reporting obligations of the scheme for loans issued until 30 June 2012 with the 2011 Prolongation Communication[8]. Those conditions also apply to the notified prolongation.

III. POSITION OF HUNGARY

(14) In line with the original decision, Hungary accepts that the scheme constitutes State aid within the meaning of Article 107(1) TFEU but submits that it 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.

[6] The liquidity support takes the form of loans. The financial institutions in receipt of such loans are obliged to use the funds to lend to the real economy. The loans cannot take the form of subordinated loans or any other form of structured instrument. Borrowers under the scheme are prohibited from referring to their having received State loans in their advertising and they are not allowed to finance acquisitions with the proceeds of the loan.

[7] See footnote 5.

[8] Commission Communication 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.

(15) The Hungarian authorities argue that it is necessary to prolong the deadline for granting loans until 31 December 2012, since the initial objectives of the measure are still valid. In its letter of 21 May 2012, the MNB confirms the necessity of the continuation of the scheme for reasons of financial stability.

(16) Hungary commits to maintain the commitments made since the introduction of the liquidity scheme and confirms that all other conditions as defined by the Commission decisions of 28 June 2010, 7 December 2010, 23 June 2011 and 7 March 2012 remain unchanged.

(17) In addition to its existing commitments on reporting obligations, Hungary commits to provide reports on the operation of the scheme[9]. If there are any participating banks in the scheme during the second half of 2012, Hungary commits to provide reports on market funding of participating banks until 15 April 2013.

IV. ASSESSMENT

(18) In its initial decision of 14 January 2010, the Commission concluded that the liquidity scheme for banks constitutes State aid within the meaning of Article 107(1) TFEU. No elements have been presented to the Commission which would alter that assessment. The Commission also found the measure compatible with the internal market under Article 107(3) (b) TFEU, because it was apt to remedy a serious distortion of the Hungarian 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 measure still persist and therefore recognises the need for the prolongation of such a scheme. In particular, the aggravation of tensions in sovereign debt markets that started to take place in 2011 has put the banking sector under increasing pressure, particularly in terms of access to funding markets.

(20) The Commission also observes that the prolongation of the scheme is a response to the continuing financial difficulties that Hungary, as most Member States, continues to experience. The information provided by the MNB confirms the need to address that problem. Although the liquidity and solvency position of Hungarian banks can be considered adequate, in case of adverse events Hungarian banks may need to rely on government liquidity and/or capital support. International markets remain fragile and are characterised by significant volatility. Thus, uncertainties in funding conditions in Europe can have an indirect but severe effect on the Hungarian banking system. Moreover, the contagion risk between parents' banks and subsidiaries has also risen, due to the renewal of the need for external funding. Against that background, the prolongation of the liquidity scheme can be deemed necessary to ensure financial stability. On the basis of that confirmation by the MNB, the Commission considers the prolongation of the scheme until 31 December 2012 appropriate and necessary to remedy a disturbance of the Hungarian economy.

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9 The last report on the operation of the liquidity scheme is on 17 July 2012. Three Hungarian banks concluded loan agreements under the scheme in the first half of 2009. From the second half of 2009 onwards no other banks have applied for liquidity support.

10 See the 2011 Prolongation Communication, footnote 8.

(21) The Commission further notes that the notified prolongation, including a change in the numbering of the provisions of the scheme's legal basis and in the name of granting authority, does not lead to any substantial changes to the eligible instruments and pricing mechanisms under the scheme[11]. Further, the Commission observes positively that the prolongation does not entail an increase of the budget.

(22) In addition to the existing commitments, Hungary commits to provide reports on the operation of the scheme. It also commits to provide reports on market funding of participating banks for the period until 15 April 2013, if any banks participate in the liquidity scheme between 1 July 2012 and 31 December 2012.

(23) In line with the Commission's decisional practice the scheme should be prolonged until 31 December 2012. The Commission recalls that any further prolongation beyond that date will require the Commission's approval and will have to be based on a review of the developments on the financial markets and the scheme's effectiveness.

(24) Therefore, the scheme remains an appropriate, necessary and proportionate measure to remedy a serious distortion of the Hungarian economy and does not alter the Commission's previous assessments in the original decision of 14 January 2010 and the prolongations of 28 June 2010, 7 December 2010, 23 June 2011 and 7 March 2012.

(25) On the basis of those considerations, the prerequisites for the compatibility of the liquidity scheme for banks that have been established by the Banking Communication[12] and the Commission's subsequent decisional practice are met. Therefore, the notified prolongation complies with the requirements set out above and are compatible with the internal market pursuant to Article 107(3)(b) TFEU.

V. DECISION

The Commission concludes that the notified prolongation of the liquidity scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU for the period from Commission's approval until 31 December 2012. The Commission has accordingly decided not to raise objections.

The Commission notes that Hungary exceptionally accepts that the decision be adopted in the English language.

11 In the last prolongation of the scheme of 7 March 2012, modifications on pricing were introduced on order to align the scheme with the 2011 Prolongation Communication.

12 See footnote 12.

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Yours faithfully,
For the Commission

Joaquín ALMUNIA
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