EUROPEAN COMMISSION

Brussels, 6.2.2012
C(2012) 673 final

Subject: State Aid SA.34149 (2011/N) - Greece
Sixth prolongation of the Support Measures for the 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].

(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, i.e. an increased ceiling of the Guarantee Scheme with an additional

[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.
[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.

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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 21 December 2011, the Greek authorities notified an extension of the measure until 30 June 2012 and exceptionally accepted that the Commission decision be adopted in the English language.

II. DESCRIPTION

II.1 The original support measures

(3) 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.

(4) The measures consisted of i) a Bank Recapitalisation Scheme whereby the State made available Tier 1 capital to participating institutions by acquiring preference shares in them; ii) a Wholesale Funding Guarantee Scheme for debt instruments with a maturity of between three months and three years in return for appropriate remuneration ("the Guarantee Scheme"); and iii) support through the issuance of Greek State special purpose securities to credit institutions, in return for appropriate remuneration, to be used to obtain liquidity from the ECB 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 up to 21 December 2011

(5) On 21 December 2011 the Greek authorities submitted a report on the operation of the Schemes. More specifically, as regards the **Recapitalisation Scheme**, the total amount granted is EUR 3.769 billion i.e. around 75% of the total amount available (EUR 5 billion). EUR 675 million of preference shares were repaid by ATE Bank.

(6) On 22 December 2011 the Commission approved a EUR 1 billion recapitalisation in favour of National Bank of Greece (NBG)[9] and on 28 December 2011 a EUR 380 million capital injection in favour of Piraeus Bank[10].

(7) Regarding the functioning of the **Guarantee Scheme**, an amount of EUR 65.096 billion has been granted in the form of guarantees, i.e. around 77% of the total amount available of EUR 84.877 billion[11].

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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 22 December 2011 "Second rescue recapitalisation of NBG under the Greek recapitalisation scheme", under case SA.34064, not yet published

10 See Commission decision of 28 December 2011 "Second recapitalisation of Piraeus Bank under the Greek recapitalisation scheme", under case SA.34122, not yet published

(8) In relation to **the Bond Loan Scheme** (the special purpose securities), the amount of EUR 7.895 billion has been granted to beneficiary banks in the form of bond loans and the amount EUR 221 million has been allocated but not granted, i.e. around 99% of the total amount available (EUR 8.123 billion).

II.3 Remuneration

(9) 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[12] as indicated below.

(10) 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.

(11) 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:

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[13].

(12) 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

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[11] 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).

[12] 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.

13 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.

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.

(13) 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.

(14) 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.

(15) The Greek authorities claimed that none of the Greek banks, including the four largest, has representative CDS any longer and therefore they could determine the guarantee fee on the basis of the CDS of the sample of banks in the lowest rating buckets, i.e. BBB and below.

(16) Footnote 12 of the 2011 Prolongation Communication states that the lowest category to be considered is A, as there is insufficient data available for the rating category BBB. However, due to the recent downgrade of many banks in the framework of the sovereign crisis, there are now many banks with a rating below A with representative CDS. Therefore the Commission services have been able to ensure that the sample of European banks with a representative CDS includes banks in the "BBB-rating or below" bucket.

III. POSITION OF GREECE

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

(18) Greece intends to extend the Schemes until 30 June 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 and SA 33153 apart from those regarding remuneration for the schemes to comply with the 2011 Prolongation Communication.

(19) According to the Greek authorities, the extension 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 inability to access the wholesale markets and the deterioration of the economic situation.

(20) According to the Greek authorities, "taken into account that the Greek banking system still faces acute funding problems, resulting from a) the continued outflow of deposits, b) the inability to access the wholesale markets and c) the impact of increased spreads on the value of eligible collateral, as well as the deterioration of the economic situation of both corporates and households and the impact of both the forthcoming PSI[14] programme and the diagnostic study of banks' loan portfolios on the capital position of all Greek banks, it would prove beneficial for the restoration of confidence and the normalization of the functioning of the markets to have an extension approved for both schemes until 30 June 2012".

(21) That assessment is confirmed also under the Economic Adjustment Programme for Greece-Fifth review of October 2011[15]. According to that report, the financial sector's situation remains fragile. The liquidity of Greek banks has tightened further, as the level of deposits continues to contract. In part, it results from households' and businesses' liquidity constraints, with the former reducing their deposits to finance and smooth consumption, but also the uneasiness caused by the ongoing discussion on debt restructuring, as well as the overall market uncertainty. Concomitantly, the reliance of Greek banks on borrowing from the Central Bank has remained very high. Several banks posted losses due to the PSI-related impairments of Greek government bonds and the continuation in asset quality deterioration amid a weak economic environment. Those losses have occurred in spite of relatively strong pre-provisioning income and comparatively low provisioning levels. Several banks are under restructuring, but the process has been slow so far. Some banks, however, have pursued domestic consolidation strategies to shield against the crisis. The Bank of Greece will require additional capital buffers against potential further deterioration of the operational environment, based on each bank's specific risk profile. Ongoing mergers will also result in stronger capitalisation. Moreover, the outlook for the Greek financial sector is not independent from choices affecting private sector involvement.

(22) 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 April 2012 at the latest.

(23) To enable the Commission to assess the application in practice of the revised pricing to be applied from 1 January 2012, Greece provided an indicative fee (estimate) 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.

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[14] PSI (Private Sector Involvement): Negotiation between the Greek authorities and its private creditors with the aim to achieve a partial waiver of the Greek government debt by its private creditors on a voluntary basis.

[15] http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/pdf/ocp87_en.pdf, pp.3, 144 and145.

(24) As regards the recapitalisation scheme, Greece committed to notify individually any recapitalisation of a bank which has already received a recapitalisation from the State in the current crisis.

IV. ASSESSMENT

IV.1 Existence of State aid

(25) 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.

(26) 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 and SA 33153, the Commission considers that the Schemes constitute State aid. The notified extension does not affect that finding. The Schemes remain State aid within the meaning of Article 107(1) TFEU.

IV.2 Compatibility of the Schemes

(27) 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.

(28) 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 extension of the Schemes until 30 June 2012 is appropriate and necessary to remedy a serious disturbance of the Greek economy.

(29) The prerequisites for the compatibility of guarantee schemes with Article 107(3)(b) TFEU that have been established by the Banking Communication[16] 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 banks, 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 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.

[16] 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.

(30) The Commission also notes that Greece has committed to respect the new guidelines on the remuneration of the guarantees, as 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.

(31) The Commission considers that the notified extension until 30 June 2012 of the Guarantee and the Bond Loan Scheme complies with the requirements set out above and is compatible with the internal market.

(32) As regards the Recapitalisation Scheme, the notified extension 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.

(33) 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.

(34) As regards the combination of State aid granted under the Schemes with other aid measures, as indicated in the Annex to the Restructuring Communication[17], 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.

(35) 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 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.

[17] OJ C 195, 19.08.2009.

(36) The Commission notes that the extension 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.

(37) The extension notified by the Greek authorities on 21 December 2011 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 June 2012.

(38) Greece agrees to provide the Commission with a concise mid-term review of the operation of the Guarantee and the Bond Loan Schemes by 15 April 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[18].

(39) On the basis of the above, the notified extension 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 and SA 33153.

(40) In view of the above, the extension to the Schemes until 30 June 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 30 June 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

[18] 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:

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

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Yours faithfully,
For the Commission

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