EUROPEAN COMMISSION

Brussels, 22.2.2012
C(2012)1198 final

Subject: State Aid SA.34344 (2012/N) – Italy
Amendment of the Italian Guarantee Scheme for banks

Sir,

I. PROCEDURE

1. On 13 February 2012 Italy notified a request to amend the guarantee scheme for banks ("the scheme"). The amendment concerns an increase of that scheme's budget. The original measure was approved on 15 December 2011 under case number SA 34032[1].

2. The legal basis for the scheme is Decree Law n. 201 article 8 of 6 December 2011, published in the Italian Official Journal of 6 December 2011.

3. The Italian authorities have exceptionally accepted that the Commission decision be adopted in the English language.

II. DESCRIPTION

Description of main features of the scheme

4. Under the scheme a State guarantee can be provided on new liabilities of Italian banks. The purpose of the scheme is to enhance the capacity of banks to place debt instruments in the market.

5. The State guarantee can cover financial debt instruments newly issued by banks with a maturity of no less than three months and no more than five years. Covered bonds (art. 7-bis of Law n. 130 of 30 April 1999) issued after 1 January 2012 with a maturity up to seven years can also be guaranteed by the State under the notified scheme. Italy provided an estimation for the total budget for the scheme of up to EUR 80 billion.

6. The debt instruments eligible for the guarantee must provide for the repayment of the principal amount in a single instalment at maturity, be at a fixed rate and be denominated

[1] Decision not yet published.

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in euro. Subordinated debt, structured instruments or complex products, or products with a derivative component are explicitly ineligible for the guarantee, as is regulatory capital.

7. The part of the guaranteed liabilities of a bank with a maturity longer than three years cannot exceed one-third of the total value of the liabilities covered by the guarantee, in addition to the limit of the capital for regulatory purposes ("*patrimonio di vigilanza*").

8. The institutions eligible for the measure are Italian banks, meaning banks incorporated in Italy, which includes Italian subsidiaries of foreign banks. Only solvent banks are eligible for the measures. Banca d'Italia (the Italian Central Bank) assesses ex ante, before the Ministry of Economy and Finance ("MEF") approves a transaction, whether the bank’s capitalisation is sufficient and whether the bank is able to meet the obligations.

9. 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 basis points and a risk metric composed of (i) one-half of the ratio of the beneficiary's median five-year senior 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[2].

10. 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 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.

11. 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.

[2] 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 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.

12. Footnote 12 of the 2011 Prolongation Communication[3] 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 establish the sample of European banks with a representative CDS that also includes banks in the "BBB-rating or below" bucket[4].

13. 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:

    (1) a basic fee of 50 basis points; and

    (2) a risk-based fee equal to 20 basis points for banks with a rating of A+ or A, 30 basis points for banks with a rating of A-, or 40 basis points for banks rated below A- or without a rating.

The notified amendment

14. Italy intends to increase the total budget of the scheme from EUR 80 billion to EUR 110 billion.

15. All the terms and commitments given by Italy within the context of the Commission decision of 15 December 2011 in State aid case SA 34032 remain unchanged.

III. Position of Italy

16. The Italian authorities accept that the scheme contains State aid elements. The Italian authorities claim that the scheme is compatible with the internal market because it is necessary to remedy a serious disturbance in the Italian economy pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union (TFEU).

17. According to Italy[5], it is necessary to revise the total budget of the scheme upwards by EUR 30 billion. That increase is to offset the recent downgrading of the sovereign, which in turn has had an impact on the collateral available to banks as well as on banks' rating.

18. The Italian authorities committed to maintain all conditions and reporting obligations under the previous Commission approval Decision.

[3] Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of banks in the context of the financial crisis, OJ C 329, 7.12.2010, p. 7.

[4] SA.34149 – Sixth prolongation of the Support Measures for Credit Institutions in Greece, point 16, not yet published; SA.34224 – Reintroduction of the Spanish Guarantee Scheme, point 18 (iv), not yet published.

[5] Note from the Bank of Italy attached to the notification.

IV. Assessment

State aid character of scheme

19. 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.

20. As indicated in its decision of 15 December 2011, the Commission agrees with the position of Italy that the measures taken by the MEF within the auspices of the scheme constitute aid to the financial institutions concerned pursuant to Article 107(1) TFEU.

21. In particular, the provision of a guarantee by the State allows the beneficiaries to get liquidity at advantageous conditions. It gives them an economic advantage as a result. Because it strengthens their position compared to that of their competitors in Italy and other Member States, it must therefore be regarded as distorting competition and as affecting trade between Member States. The advantage is selective since it only benefits the beneficiaries of the scheme. It is provided through State resources.

22. The amendment of the scheme, and namely the increase in its budget, does not modify the nature of those measures and therefore constitutes aid pursuant to Article 107(1) TEFU.

Compatibility

23. In its decision of 15 December 2011, the Commission considered the notified measure compatible with the internal market under Article 107(3)(b) TFEU.

24. The Commission notes that all terms and conditions for the guarantees approved on 15 December 2011 will remain unchanged except for the budget.

25. As to increase in the budget of the scheme from EUR 80 billion to EUR 110 billion, the Commission accepts the argument put forward by Italy (see recital 17 above) that the recent downgrade of the sovereign justifies an adjustment upwards of the budget of the scheme.

26. In particular, the Commission notes that the scheme is meant to address the challenges arising from the current tensions in the funding markets, which also reflect the sharp re-pricing of sovereign risk.

27. As a consequence, the amendment to the scheme should be considered from a State aid point of view as an appropriate, necessary and proportionate means to remedy the serious disturbance of the Italian economy.

28. On the basis of the above, the notified amended scheme is compatible with the internal market until 30 June 2012.

V. DECISION

The Commission has decided not to raise objections against the notified amendment to the scheme until 30 June 2012, since it fulfils the conditions to be considered compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The Commission notes that Italy has exceptionally accepted that the decision be adopted in the English language.

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

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Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President