EUROPEAN COMMISSION

Brussels, 5.2.2009
C(2009) 840 final

Subject: State Aid N44/2009 – Finland
Modifications to the Guarantee Scheme for Banks´ Funding in Finland

Sir,

I. PROCEDURE

1. On 11 November 2008 Finland notified a guarantee scheme for banks´ funding, which was approved on 13 November[1]. On 28 January 2009 Finland notified changes to the scheme.

II. DESCRIPTION

1. The objective of the Original Scheme

2. In response to the exceptional turbulence in world financial markets, Finland brought forward a guarantee scheme (hereinafter referred to "the Scheme") designed to restore stability to the financial system and to remedy a serious disturbance to the economy of Finland. The scheme had as its objective supporting the short and medium term financing needs of banks and mortgage institutions.
3. The proposed measure consisted of a state guarantee for the issuance of new and medium term debts in exchange for a fee.

2. The Beneficiaries

4. Eligible institutions, for the amended scheme, remain all Finnish deposit banks and mortgage banks, including the Finnish subsidiaries of foreign financial institutions, which are considered as solvent by the Finnish authorities. The beneficiary may be a deposit bank or its parent undertaking. In case of a group the beneficiary may be one bank or an undertaking in the group.

[1] The Guarantee Scheme for Banks´ Funding N 567/2008

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3. Description of the changes to the Scheme

5. Finland has proposed the following changes to the Scheme.

6. Firstly, Finland will introduce a limited possibility to roll over the short term debt (maturity from 90 days up to 12 months) to medium term debt (unsecured bonds with a maturity up to 3 years). This means that the participating banks can renew the previously guaranteed short-term debt as medium term debt and still retain the same State guarantee (hereafter the "extension facility").

7. The total maximum amount available to be rolled over in this fashion will be EUR 5 billion. Thereby the initial maximum amount of the scheme does not increase and continues to be EUR 50 billion as described in the original decision.

8. For each credit institution there will be separate maximum limit available under the extension facility. The maximum for each credit institution will be its share of the total lending of all eligible banks as 31 December 2008. There will also be a monthly maximum, which for each bank will be the amount of the short term debt that matures during the given month.

9. The other conditions –the entry window and the fee payable – are determined as in the original scheme.

10. Secondly, the requirement that the balance sheet growth of participating institutions be limited to certain thresholds, as set out in point 14 of the original decision, no longer applies to the participating banks.

11. Thirdly, the conditions on management wages and other remuneration will be changed. The participating banks will have to follow the principles of the competitive remuneration system for state-owned and associated companies. These principles are laid down in the corresponding guidelines on the remuneration of the management of State-owned enterprises in 2007.

12. Fourthly, in the original scheme under point 16, the participating banks were not allowed to buy or otherwise acquire against payment their own shares. Savings banks were not allowed to buy or otherwise acquire against payment their basic funds shares. Cooperative banks were not allowed to refund any type of capital for any other reason than termination of membership in the cooperative. This condition will be not applicable in the amended scheme.

13. All the other conditions of the original scheme remain unchanged.

III. POSITION OF FINLAND

14. In line with the original decision, the Finnish authorities accept that the amended scheme contains State aid elements.

15. Finland notes that due to drastic global economic downswing, it is necessary to introduce the above-mentioned amendments to the original scheme for the following reasons.

16. Finland submits that the extension facility is necessary because its banks will have difficulties funding longer term lending to the real economy if their own funding is based on short term debt.

17. The Finnish authorities will no longer undertake to impose the balance sheet restriction set out in 14 of the original decision for the beneficiaries of the Guarantee Scheme as provided in accordance with footnote 18 of the Communication on "The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition".

18. The Finnish Authorities claim that the restriction on buy back programmes is not relevant in the case of the guarantee scheme. This restriction makes the State guarantee unattractive with the result that the banks would rather scale down their business than participate in the scheme. This is not in the interest of the Finnish government in the current economic slowdown.

IV. ASSESSMENT

1. State aid character of the Amended Scheme

19. As set out in Article 87(1) EC, 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 common market.

20. Similar to the original scheme, the Commission agrees with the position of the Finland that the amended scheme for eligible institutions constitutes aid to the institutions concerned pursuant to Article 87 (1) EC.

2. Compatibility of the Amended Guarantee Scheme

a) Application of Article 87(3)(b) EC

21. The Commission found the original scheme to be compatible with the common market under Article 87(3)(b) EC of the EC Treaty. Given that this amended scheme is practically identical to the original scheme, and the situation on the financial markets has not improved, it is only necessary to assess whether this is still the case in view of the aforementioned amendments.

b) Assessment of the Amendments to the Guarantee Scheme

22. Regarding the 'extension facility', the Commission considers that this measure fulfils the principles set out in the 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"[2]. It is an appropriate amendment to the scheme to encourage Finnish banks to move towards medium-term financing, which is more stable than regular short-term refinancing. The guaranteed medium term debt will have a maturity maximum up to 3 years and the fee will be calculated according the acceptable market rates as described in the original scheme in paragraph 11. In addition, the extension facility does not increase the overall budget of the original scheme, i.e. EUR 50 billion.

23. The amended scheme no longer includes behavioural constraints in the form of a limitation of the expansion of the balance sheet of the participating banks. This is in line

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2 Official Journal C 270, 25.10.2008, pages 8–14

with the revised guidance of the Commission, which was set out in footnote 18 of the recent Communication on "The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition"[3]. This paper states that balance sheet growth restrictions are not necessary for the recapitalisation of fundamentally sound banks, which also applies in principle to guarantee schemes. There are no indications that the absence of such limitations would lead to undue distortions of flows of funds between Member States.

24. The Commission notes that the introduction by the Finnish Government of clear guidelines for management wages and other remuneration simply clarifies the behavioural guidelines attached to the guarantee scheme and therefore is still in line with the original decision. Furthermore, the definition of clear principles of management remuneration for credit institutions benefiting from State aid is a positive element in the assessment of the compatibility of such aid.

25. The last amendment concerns the buy-back programs, meaning that a bank with shares, which has been granted a state guarantee, is not allowed to buy or otherwise acquire against payment its own shares.. The Commission considers that the restriction is not pertinent to the assessment of the compatibility of the State-Aid measure and therefore does not object to its removal.

26. On the basis of the above, the amended scheme of Finland can be considered compatible with the Common market.

V. DECISION

The Commission concludes that the notified amended scheme is compatible with the Common market and has accordingly decided not to raise objections against it, since it fulfils the conditions to be considered compatible with the EC Treaty.

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Yours faithfully,

For the Commission

Neelie Kroes
Member of the Commission

[3] Official Journal C 10, 15.01.2009, pages 2-10