EUROPEAN COMMISSION

Brussels, 22.4.2010
C(2010) 2560 final

Subject: **State aid N 127/2010 – Sweden**
Extension of the bank guarantee scheme

Sir,

1. PROCEDURE:

(1) Sweden notified the above-mentioned measure on 6 April 2010.

(2) The bank guarantee scheme was originally approved by Commission decision of 29 October 2008 in State aid case N 533/2008 (hereinafter "the original decision")[1]. Amendments to the scheme were approved by the Commission on 29 January 2009 (State aid N 26/2009)[2]. By Commission decision of 28 April 2009 (State aid N 154/2009)[3], the scheme was extended until 31 October 2009. Subsequently, on 26 October 2009 the Commission approved an extension of the scheme until 30 April 2010 (State aid N 544/2009)[4].

2. DESCRIPTION

2.1. The Scheme

(3) In response to the exceptional turbulence in the financial markets, Sweden has taken measures intended to restore confidence and encourage healthy inter-bank lending. One element of this package is a State guarantee scheme on new short- and medium-term debt issuance by banks and other financial institutions,

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[1] OJ C 308, 3.12.2008, p. 6.

[2] OJ C 37, 14.2.2009, p. 4.

[3] OJ C 123, 3.06.2009, p. 2.

[4] OJ C 299, 9.12.2009, p. 2.

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intended to support the medium-term financing needs of the financial sector (hereinafter "the Scheme").[5] The details of the Scheme are given in the Commission's earlier decisions.

2.2. Reports on the operation of the Scheme

(4) Sweden has undertaken to report every six months on the operation of the Scheme. The report has been submitted with the notification.

(5) According to the report, the take-up rate of the Scheme has continuously diminished since mid-2009.[6] Sweden considers there are two reasons for this development. Firstly, the demand for new guarantees has ceased since July 2009 whilst, at the same time, some earlier granted guarantees have expired. Secondly, the Swedish krona has appreciated, which has had the effect of lowering the value of guarantees issued in foreign currencies but measured in SEK. In total over 75 % of the guarantees are issued in foreign currencies, mainly in USD and EUR.

3. THE NOTIFIED MEASURE

(6) Sweden considers that the functioning of financial markets can not yet be regarded as normal. Sweden argues that even though banks' overall funding conditions have improved, banks still rely more than usual on covered bonds in their long-term funding needs, whereas in short-term funding banks tend to use more than usual the Swedish Central Bank's credit facilities. Accordingly, Sweden considers that the Scheme is still needed as "insurance" in case the situation would get worse again. Sweden consequently asks for a prolongation of the Scheme as it is regarded as necessary to safeguard the Swedish economy from a serious disturbance.

(7) Sweden underlines that there still exists great uncertainty as to the outlook of the real economy, particularly when it comes to the Baltic States, but also to Sweden and more generally to the world economy. Swedish banks are heavily exposed to risks arising from the Baltic States and are expecting further loan losses resulting from these risks even though the volume of new non-performing loans has stabilised recently.

(8) In the present circumstances, the Swedish government considers it necessary to maintain the Scheme for a further two months to provide further security regarding bank funding and to remedy a serious disturbance in Sweden's economy. The Swedish government's view is endorsed by a letter from Sweden's Central Bank.

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[5] Sweden has also introduced a recapitalisation scheme for sound banks, see Commission decision of 10 February 2009 in case N 69/2009 and of 5 August 2009 in case N 436/2009.

[6] The guaranteed volumes were in April -09 SEK 275 bn (EUR ~28 bn), in June -09 SEK 353 bn (EUR ~36 bn), in September -09 SEK 306 bn (EUR ~32 bn) and in February -10 SEK 236 bn (EUR ~24 bn), with an exchange rate of 1 EUR = 9.70 SEK. Of these, the biggest part by far is held by Swedbank ([…]* % of the entire guaranteed volume), whereas smaller portions are held by 5 other institutions.

* […] -marking refers to confidential information containing business secrets.

(9) Sweden consequently intends to extend the scope of the Scheme so that guarantees can cover instruments issued after 30 April 2010 but no later than 30 June 2010.

(10) Sweden commits to submit a report to the Commission on the use of the Scheme. The report will be submitted in sufficient time before any further prolongation and at the latest six months after the amended Scheme enters into force.

(11) In addition, Sweden commits to report comprehensively on the cost of comparable guaranteed and non-guaranteed debt issuances (instrument, volume, rating, currency and any other relevant parameters).

(12) All other terms and conditions of the Scheme remain unchanged.

4. ASSESSMENT OF THE MEASURE

4.1. State aid character of the amended Scheme

(13) According to Article 107(1) TFEU[7], State aid is 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, in so far as it affects trade between Member States.

(14) For the reasons indicated in the original decision and in the subsequent decisions N 26/2009, N 154/2009 and N 544/2009, the Commission considers that the Scheme constitutes State aid. The notified extension of validity does not affect that finding. The Scheme remains State aid within the meaning of Article 107(1) TFEU.

4.2. Compatibility of the notified amendments

4.2.1. Application of Article 107(3)(b) TFEU

(15) For reasons indicated in the original decision N 533/2008 and reiterated in the subsequent decisions, the Commission found the Scheme to be compatible with the internal market under Article 107(3)(b) TFEU, as it met the relevant criteria of appropriateness, necessity and proportionality.

(16) Given that the notified measure makes no change to the substance of the Scheme, it is only necessary to assess whether the finding of compatibility holds true also for the extension.

(17) The Commission acknowledges that repercussions of the global financial crisis are still being felt in financial markets and accepts that the Swedish financial system continues not to function as it would in normal conditions. The Commission further accepts that this is liable to cause a serious disturbance to the

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[7] With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the TFEU (Treaty on the Functioning of the European Union). The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate.

Swedish economy (in particular in view of the exposure of Swedish banks to the economy of the Baltic States). As this situation is likely to prevail in the period covered by the notified extension, the Commission considers that the extension from 1 May 2010 to 30 June 2010 is appropriate and necessary to remedy this situation.

(18) In this connection, the Commission noted that Sweden has submitted a letter from the Governor of the Riksbank (the Central Bank) seconding the Government's position that there is a continued need for the government measures.

(19) Furthermore, the Commission notes that the extension is limited in time to two months which will limit the potential distortion of competition. Any further extension will require the Commission's approval and will have to be based on an in-depth review of the developments in financial markets and the Scheme's effectiveness. This change is therefore proportionate to the purpose of the Scheme.

(20) The Commission consequently finds that the extension of the Scheme is compatible with the internal market under Article 107(3)(b) TFEU.

(21) In assessing the request for the prolongation of this guarantee scheme, the Commission has to balance its positive effects for financial stability with the distortions of competition and the delay in the return to a normal functioning of the financial markets that the prolongation entails. Guarantee schemes should contain minimum exit incentives, and a gradual alignment to market conditions should take place in order to minimise negative spill-over effects on competitors and other Member States.

(22) The evolution of the market situation and the reduction of the risk premia for unguaranteed debt have brought about a first step towards an alignment with market conditions, whilst providing an exit incentive for the sounder institutions. While more convergence towards market conditions may be necessary to further reduce distortions across banks in the internal market and avoid the risk of State aid dependence, the still fragile recovery suggests that banks should retain for the time being the possibility of accessing government guarantees schemes at the present conditions.

(23) On balance, the Commission considers that the prolongation until mid 2010 of the State guarantee scheme under the present conditions is compatible with the internal market.

(24) As indicated in the Annex to the Restructuring Communication[8], 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). This means that, as soon as a Member State is under an obligation to submit a restructuring plan for a certain aid beneficiary, the Commission needs to take a view in its final decision as to whether any aid granted during the

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8 OJ C 195, 19.08.2009, p. 9.

restructuring period satisfies the criteria required for the authorisation of restructuring aid. To this end an individual ex ante notification is necessary.

(25) 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, this 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.

5. Decision

The Commission finds that the notified extension of the Scheme constitutes State aid within the meaning of Article 107(1) TFEU.

Since the extension of the Scheme fulfils the conditions for aid under Article 107(3)(b) TFEU, it is compatible with the internal market. The Commission has accordingly decided not to raise any objections to the extension of the Scheme until 30 June 2010 included.

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

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Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President of the Commission