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FEDERAL PUBLIC SERVICE FINANCES

16 OCTOBER 2008. - Royal decree issued pursuant to article 117bis of the law of 2 August 2002 on the supervision of the financial sector and financial services

REPORT TO THE KING

Sire,
 The decree which we have the honor to submit for Your Majesty's signature aims to set up a system for granting the State guarantee for commitments entered into by the financial institutions that this decree determined. Authorization is given to the King by article 117bis, 2° of the law of 2 August 2002 relating to the supervision of the financial sector and financial services.

Article 117bis, 2°, of the law of August 2, 2002 provides in particular for the legal basis which empowers the King to put in place, by royal decree deliberated in the Council of Ministers after consulting the Financial Stability Committee, a system of granting of the State guarantee for commitments entered into by the financial institutions it determines, with a view to preserving the financial system in the event of a sudden crisis on the financial markets or in the event of a serious threat of a systemic crisis.

Given the current turmoil on the financial markets and in particular the refinancing difficulties of financial institutions, it is indeed necessary to set up a temporary guarantee plan aimed at facilitating the refinancing of credit institutions or financial companies governed by Belgian law on the interbank markets and with institutional counterparties.

Considering that this decree is essential to preserve the stability of the Belgian financial system and that any delay in its adoption and publication would undermine its effectiveness and its objective, namely to strengthen market confidence in the measures announced, it is not possible to seek the opinion of the Council of State, even within the shortened period.

Article commentary

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Article 1

empowers

draft article 1 empowers the Minister of Finance to attach the State guarantee to commitments meeting the criteria, and under the conditions, determined in this order.

Article 2

The draft article 2 specifies that the State guarantee may be granted for the commitments of any credit institution or financial company meeting the criteria set out in article 3.

The draft article 2 then stipulates that only Commitments to other credit institutions and to professional counterparties are guaranteed, provided that they fall due no later than October 31, 2011. The Minister of Finance is empowered to specify the categories of professional counterparties.

The State guarantee can only be attached to commitments contracted or renewed between October 9, 2008 and October 31, 2009.

Article 3

Draft Article 3 specifies that the State guarantee can only be granted provided that the guaranteed entity has taken, or has undertaken to take, any useful measure to support its financial situation, its solvency and its liquidity and provided that the interest of the Belgian economy and the protection of all the depositors justify it.

Section 4

The draft article 4 empowers the Minister of Finance to determine the terms and conditions of the guarantee, including its ceiling and its conditions of remuneration. The Minister of Finance is also empowered to specify the procedures intended to ensure compliance with the conditions referred to in Article 3.

It is further stipulated that the guarantee may only be called upon if it is established that the guaranteed entity is unable to perform, on their due date, the commitments to which the guarantee was attached or that the performance of the guarantee is necessary to ensure its continuity.

The draft article 4 finally specifies that the Minister of Finance may at any time terminate the guarantee granted to a guaranteed entity if the conditions for granting it are no longer respected. In this case, the guarantee is however maintained for the commitments contracted previously.

Article 5

The draft article 5 specifies that the decree takes effect from 9 October 2008. In the context of the current turbulence on the financial markets and in particular the difficulties in refinancing financial institutions, it is indeed necessary that the guarantee of the State for some of the commitments made by the institutions referred to in the decree can be granted as of October 9, 2009.

The Deputy Prime Minister and Minister of Finance
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16 OCTOBER 2008. - Royal decree issued in execution of article 117bis of the law of 2 August 2002 relating to the supervision of the financial sector and financial services

ALBERT II, King of the Belgians,

To all, present and future, Greetings.

Having regard to the law of 2 August 2002 relating to the supervision of the financial sector and to financial services, article 117bis, 2°, inserted by the law of 15 October 2008;

Having regard to the opinion of the Inspector of Finance, given on October 15, 2008;

Having regard to the opinion of the Financial Stability Committee, given on October 15, 2008;

Considering the agreement of Our Secretary of State for the Budget, given on October 15, 2008;

Considering the laws on the Council of State, coordinated on January 12, 1973, article 3, § 1;

Considering the extremely urgent need to preserve the stability of the Belgian financial system;

Considering the current turmoil in the financial markets;

Considering that this Order is essential to preserve the stability of the Belgian financial system; whereas any delay in its adoption and publication would undermine its effectiveness and its objective, namely to increase market confidence in the measures announced;

Considering, therefore, that given the urgency, it is not possible to seek the opinion of the Council of State, even within the shortened period;

On the proposal of our Minister of Finance and on the advice of Our Ministers who deliberated on it in Council, We have decided and are stopping:

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Article . The Minister of Finance is empowered to attach the State guarantee to commitments meeting the criteria, and under the conditions, determined in the following articles.

Art. 2. The State may guarantee the commitments of any credit institution and any financial company as well as their issuing vehicles (hereinafter the "guaranteed entities") meeting the criteria set out in Article 3 below, for provided (i) that they are commitments towards other credit institutions, as well as commitments towards professional counterparties belonging to the categories that the Minister of Finance determines and (ii) that the guaranteed commitments expire at the latest late October 31, 2011.

The State guarantee can only be attached by virtue of the preceding paragraph to commitments contracted or renewed between October 9, 2008 and October 31, 2009.

Art. 3. The State guarantee may only be granted provided that (i) the guaranteed entity has taken, or has undertaken to take, all useful measures to support its financial situation, its solvency and its liquidity and that (ii) the interest of the Belgian economy and the protection of all depositors justify it.

Art. 4. The Minister of Finance determines the other terms and conditions of the guarantee, including its ceiling, its remuneration conditions and all other terms intended to ensure compliance with the conditions referred to in Article 3.

The guarantee may only be called upon if it is established that (i) the guaranteed entity is unable to perform, on their due date, the commitments to which the guarantee was attached or (ii) that the execution of the guarantee is necessary to ensure its continuity.

The Minister of Finance may at any time terminate, without notice or compensation, the guarantee granted, if the conditions for granting it are no longer met, in which case the guarantee is however maintained for commitments

entered into previously.

Art. 5. This decree takes effect on October 9, 2008.

Given in Brussels, October 16, 2008.

ALBERT

By the King:

The Minister of Finance,

D. REYNDERS

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