

## **State aid: Commission gives guidance to Member States on measures for banks in crisis**

***The European Commission has published guidance on how Member States can best support financial institutions in the current financial crisis whilst respecting EU state aid rules and so avoiding excessive distortions of competition. The guidance is based in particular on EC Treaty rules allowing for aid to remedy a serious disturbance in the economy of a Member State (Article 87.3.b of the EC Treaty). The guidance will help Member States to put in place coordinated concrete measures to restore confidence in financial markets in accordance with the 12<sup>th</sup> October Eurogroup declaration. EU state aid rules require that measures taken do not give rise to disproportionate distortions of competition, for example by discriminating against financial institutions based in other Member States and/or allowing beneficiary banks to unfairly attract new additional business solely as a result of the government support. Other requirements include that measures must be limited in time and foresee adequate contributions from the private sector. The Commission will aim to approve schemes that comply with this guidance very quickly (within 24 hours, if possible).***

Competition Commissioner Neelie Kroes said: "By adopting this guidance the Commission has delivered very quickly on its undertaking given to the EU's Council of Finance Ministers on 7<sup>th</sup> October to help Member States to act in a coordinated and effective manner to address urgent problems facing the financial sector. This guidance demonstrates how the state aid rules form an important part of the solution to current problems on financial markets and serves as a timely complement to the 12<sup>th</sup> October Eurogroup agreement on action to safeguard the financial system".

The Commission's guidance (in the form of a Communication) indicates how the Commission intends to apply EC Treaty state aid rules to state support schemes and individual assistance for financial institutions in the current crisis. Support schemes such as guarantees or recapitalisation schemes can be cleared by the Commission very quickly if they fulfil conditions which guarantee that they are well-targeted and proportionate to the objective of stabilising financial markets and contain certain safeguards against unnecessary negative effects on competition. The specific conditions include:

- Non-discriminatory access in order to protect the functioning of the Single Market by making sure that eligibility for a support scheme is not based on nationality
- State commitments to be limited in time in such a way that it is ensured that support can be provided as long as it is necessary to cope with the current turmoil in financial markets but will be reviewed and adjusted or terminated as soon as improved market conditions so permit

- State support to be clearly defined and limited in scope to what is necessary to address the acute crisis in financial markets while excluding unjustified benefits for shareholders of financial institutions at the taxpayer's expense
- An appropriate contribution of the private sector by way of an adequate remuneration for the introduction of general support schemes (such as a guarantee scheme) and the coverage by the private sector of at least a significant part of the cost of assistance granted
- Sufficient behavioural rules for beneficiaries that prevent an abuse of state support, like for example expansion and aggressive market strategies on the back of a state guarantee
- An appropriate follow-up by structural adjustment measures for the financial sector as a whole and/or by restructuring individual financial institutions that had to rely on state intervention.

The observance of these principles, including in individual aid measures, will have to be ensured by Member States and will be monitored by the Commission. The Commission is available to advise Member States, on the basis of this guidance, on how best to tailor national measures to comply with EU state aid rules in advance of finalisation of a particular scheme.

The Communication is based on the principles underpinning the existing Rescue and Restructuring Guidelines (see [MEMO/04/172](#)), taking into account the particular circumstances applying to the financial sector in the context of the current exceptional crisis that can be considered to constitute a serious disturbance in the economy of a Member State within the meaning of the state aid rules (Article 87.3.b).

The text of the guidance Communication is available at:

[http://ec.europa.eu/competition/state\\_aid/legislation/horizontal.html](http://ec.europa.eu/competition/state_aid/legislation/horizontal.html)