EUROPEAN COMMISSION

Brussels, 16.04.2014
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| In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]. | | PUBLIC VERSION<br><br>This document is made available for information purposes only. |
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**Subject: State aid SA.36612 (2014/C) (ex 2013/NN) – Latvia**
**Aid granted by Latvia to AS Citadele banka and AS Reverta (formerly known as AS Parex banka) as well as misuse of aid**

Sir,

The Commission wishes to inform Latvia that, having examined the information supplied by your authorities on the aid referred to above, it has decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union ("the Treaty").

## 1 PROCEDURE

(1) On 10 November 2008 Latvia notified to the Commission a package of State aid measures in favour of AS Parex banka ("Parex banka"), designed to support the stability of the financial system. The Commission approved those measures on 24

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November 2008[1] ("first rescue Decision") based on Latvia's commitment to submit a restructuring plan for Parex banka within six months.

(2) Following requests from Latvia, the Commission approved two sets of changes to the aid measures concerning Parex banka, the first on 11 February 2009[2] ("second rescue Decision") and the second on 11 May 2009[3] ("third rescue Decision").

(3) On 11 May 2009 Latvia notified a restructuring plan for Parex banka. By decision of 29 June 2009[4] the Commission came to the preliminary conclusion that the notified restructuring measures constituted State aid to Parex banka and expressed its doubts that such aid could be found compatible. As a result the Commission decided to initiate the procedure laid down in Article 108(2) of the Treaty and required Latvia to provide information needed for the assessment of the compatibility of the aid

(4) Between 11 May 2009 and 15 September 2010, several information exchanges and discussions occurred between Latvia and the Commission concerning the restructuring plan for Parex banka. Latvia provided information and clarifications on several occasions throughout the investigation procedure, and the restructuring plan of Parex banka was also updated six times.

(5) On 1 August 2010, some assets of Parex banka were transferred to a newly established so-called "good bank" named AS Citadele banka ("Citadele"), in line with the restructuring plan. The restructuring plan envisaged a split of Parex banka into Citadele, which would take over all core assets and some non-core assets[5], and a so-called "bad bank" ("Reverta"[6]) which kept the remaining non-core and non-performing assets.

(6) By decision of 15 September 2010[7] ("the Parex Final Decision"), the Commission approved the restructuring plan of Parex banka, based on a commitment paper submitted by the Latvian authorities on 3 September 2010.

(7) On 10 August 2012, at the request of the Latvian authorities, the Commission approved amendments to three commitments included in the Parex Final Decision ("the

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[1] Commission Decision NN 68/2008, OJ C 147, 27.6.2009, p. 1.

[2] Commission Decision NN 3/2009, OJ C 147, 27.6.2009, p. 2.

[3] Commission Decision N 189/2009, OJ C 176, 29.7.2009, p. 3.

[4] Commission Decision C 26/2009 (ex N 189/2009), OJ C 239, 6.10.2009, p. 11.

[5] In particular, performing loans to borrowers located in the Commonwealth of Independent States, the Lithuanian subsidiary, branches in Sweden and Germany and the wealth management business, with the latter including the Swiss subsidiary.

[6] The bad bank initially kept the name of Parex banka after the split that took place on 1 August 2010, but has been registered since May 2012 under the corporate name "AS Reverta".

[7] Commission Decision C 26/2009, OJ L 163, 23.06.2011, p. 28

Amendment Decision")[8]. Those amendments: 1) extended the disposal deadline for the CIS loans[9] until 31 December 2014; 2) increased the limit of minimum capital adequacy requirements allowed for Citadele at the level of the bank and the group before the asset remuneration described in the Parex Final Decision would be triggered; and 3) allowed carry-over of previous years' unused caps on lending, whilst respecting market share caps.

(8) On 1 October 2013 Latvia notified a requested for a further amendment of the Parex Final Decision, asking for the postponement of the divestment deadline for one of the divisions of Citadele, the Wealth Management Business[10]. While analysing Latvia's submissions in support of that amendment request, the Commission identified aid that had been granted by Latvia over and beyond the aid measures already approved by the Commission.

(9) Between […]* and 4 March 2014, several information exchanges have taken place between Latvia and the Commission with regard to the additional aid measures. Latvia submitted information and documents on 30 October 2013, 31 January 2014 and 4 March 2014 (including a revised restructuring plan of Parex banka).

(10) Since 11 November 2013, the Commission has also received monthly updates regarding Latvia's progress in selling Citadele, a process it began in October 2013.

(11) The Latvian authorities have informed the Commission that for reasons of urgency they exceptionally accept that this Decision is adopted in the English language.

## 2 DESCRIPTION

### 2.1 The undertaking concerned

(12) Parex banka was the second-largest bank in Latvia with total assets of LVL 3.4 billion (EUR 4.9 billion) as of 31 December 2008. It was partially nationalised in November 2008.

(13) In April 2009, the European Bank for Reconstruction and Development (“EBRD”) acquired 25% of the share capital of Parex banka plus one share. Following the split of Parex banka into a good bank and a bad bank in 2010 along with subsequent changes in the shareholding structure, the shareholders of Citadele are now Latvia (75%) and

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[8] Commission Decision SA.34747, OJ C273, 21.09.2013, p. 1.

[9] Meaning loans to borrowers located in the Commonwealth of Independent States.

[10] The Wealth Management Business consists of the private capital management sector of Citadele, asset management subsidiaries and AP Anlage & Privatbank AG, Switzerland.

[*] Confidential information.

the EBRD (25%), while the shareholders of Reverta are Latvia (84.15%), the EBRD (12.74%) and others (3.11%).

(14) A detailed description of Parex banka up to the time of the Parex Final Decision can be found in recitals (11) to (15) of that decision. Parex banka was authorised to receive a series of aid measures (including liquidity support, guarantees and recapitalisation and asset relief measures) which are specified in the Parex Final Decision. Those measures were approved by the Commission in the first, second and third rescue Decisions (the "Rescue Decisions") and the Parex Final Decision.

### 2.2 The aid measures approved for Citadele and Reverta

(15) The restructuring plan approved by the Commission with the Parex Final Decision provided that the rescue aid previously approved by the Commission was to be extended over the restructuring period and split between Citadele and Reverta. The Parex Final Decision also approved additional restructuring aid for Reverta and Citadele. It also laid down a utilisation mechanism for the aid which had been provisionally approved through the Rescue Decisions after Parex banka was split, in regard to:

a) liquidity support in the form of State deposits for both Citadele and Reverta;[11]

b) State guarantees on liabilities of Citadele and Reverta;[12]

c) a State recapitalisation for Reverta and Citadele;[13] and

d) an asset relief measure for Citadele.[14]

### 2.3 The commitments given by Latvia in the Parex Final Decision and the Amendment Decision

(16) In order to enable the Commission to find the restructuring aid compatible with the internal market Latvia provided commitments to ensure full implementation of the restructuring plan and limit distortions of competition that result from the restructuring aid ("the commitments").

(17) The main commitments regarding Citadele are described in recitals 73 to 83 of the Parex Final Decision. They include: a commitment to divest the CIS loans; a commitment to divest the Wealth Management Business within fixed deadlines (one which applied to divestment by Citadele itself and another which applied to divestment under the control of a Divestment Trustee) ; the preservation of viability, marketability and competitiveness; a hold-separate obligation in relation to the Wealth Management

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[11] Recitals 55-57 of the Parex Final Decision.

[12] Recitals 58-61 of the Parex Final Decision.

[13] Recitals 62-68 of the Parex Final Decision.

[14] Recitals 69-70 of the Parex Final Decision.

Business; a commitment to sell Citadele within a fixed deadline; caps on new lending and deposits in the Baltic countries; caps on the deposits in the German and Swedish branches; no increase in the number of branches; remuneration in respect of the asset relief measure; an acquisition ban; and a ban on making new CIS loans.

(18) The main commitments regarding Reverta are described in recitals (84) to (87) of the Parex Final Decision. They include commitments that there would be no new activities; there would be a wind-down or divestment of activities; and a cap on the total amount of capital that would be provided by Latvia in whatever form.

(19) Recitals (88) to (93) of the Parex Final Decision describe the commitments jointly applying to Reverta and Citadele. They provide for: a dividend and coupon ban; a ban on any reference to State support in advertising; a separation between Citadele and Reverta; and the appointment of Monitoring and Divestiture Trustees.

(20) As recalled in recital (16), the Commission subsequently amended three of the commitments applicable to Citadele under the Parex Final Decision. That approval was based on new commitments undertaken by Latvia and Citadele to compensate for any distortion of competition.

### 2.4 The additional measures implemented by Latvia for Parex banka, Citadele and Reverta

(21) Based on the report submitted on 29 August 2013 by the Monitoring Trustee[15] and based on documents and information submitted by Latvia since October 2013, it appears that Latvia has put into effect the following measures without prior notification to the Commission:

(i) on 22 May 2009, Latvia granted to Parex banka a subordinated loan of LVL 50,27 million (qualifying as Tier 2 capital) with a maturity of seven years (i.e. until 21 May 2016). The duration of that subordinated loan exceeds the maximum five-year maturity set in first rescue Decision and confirmed in the Parex Final Decision;

(ii) On 27 June 2013, Latvia granted Citadele an additional 18-month extension of the maturity for an amount of LVL 37 million of subordinated debt (out of the total of LVL 45 million held by Latvia at that time).[16] Table 1 gives an overview

[15] The Monitoring Trustee was appointed through a Mandate signed by Reverta, Citadele and the Latvian authorities on 28 February 2011. The Monitoring Trustee has submitted bi-annual monitoring reports covering the preceding semester, starting with the one ending 31 December 2010.

[16] Following the split of Parex banka, Citadele was established on 1 August 2010. The Parex Final Decision approved the transfer to Citadele of all of the subordinated loans previously granted to Parex banka. No Tier 2 capital was provided to Parex banka by Latvia at the time of the split or could have been provided by Latvia after the split.

On 3 September 2009 the EBRD agreed to refinance part of the subordinated loan previously granted by Latvia to Parex banka. As of 31 December 2009 the subordinated loans granted by Latvia to Parex banka of the subordinated debt maturity changes, as of 31 December 2013. Latvia did not notify the extension of the maturity of that subordinated debt to the Commission.

**Table 1:**

<table>
<tr><td>Issuer</td><td>Principal (LVL million)</td><td>Maturity approved by the Parex Final Decision</td><td>Maturity date throughout the restructuring period</td><td>Extended Maturity (granted in 2013)</td></tr>
<tr><td>LPA[17]</td><td>7.87</td><td rowspan="3">May 2014 (5 years starting from 2009)</td><td>08/08/2016</td><td>-</td></tr>
<tr><td>LPA</td><td>37.34</td><td>21/05/2016</td><td>20/12/2017</td></tr>
<tr><td>[…]</td><td>[…]</td><td>[…]</td><td>[…]</td></tr>
<tr><td>Total</td><td>50.27</td><td></td><td></td><td></td></tr>
</table>

(iii) In addition, since 2011 Latvia has provided Reverta with liquidity support in excess of the maximum limit set and approved by the Commission in the Parex Final Decision, both for the base case and for the worst case scenario (presented in Table 2[18]). The actual amounts of liquidity support from which Reverta has benefited were communicated by the Latvian authorities through the revised restructuring plan submitted in January 2014 and are reflected in Table 3:

**Table 2 – liquidity caps for Reverta as reflected in the Parex Final Decision:**

| **LVL million** | **01/08/10** | **31/12/10** | **31/12/11** | **31/12/12** | **31/12/13** |
|---|---|---|---|---|---|
| **Base case** | **458** | **446** | **419** | **349** | **315** |
| Best case | 458 | 446 | 419 | 356 | 322 |
| Worst case | 458 | 446 | 419 | 344 | 307 |

amounted to LVL 37 million, while the subordinated loan granted by the EBRD amounted to LVL 13 million.

At the time of the split Latvia took over LVL 8 million out of the LVL 13 million subordinated loan held by the EBRD. As of 1 August 2010, the total amount of subordinated loans held by Latvia was LVL 45 million (with different maturities), while that held by the EBRD was LVL 5 million.

17 The Latvian Privatisation Agency, owned by Latvia.

18 That information is contained in Table 6 of the Parex Final Decision.

**Table 3 – actual amounts of liquidity from which Reverta has benefited**

| Outstanding of liquidity support | | | | | |
|---|---|---|---|---|---|
| | **01/08/10** | **31/12/10** | **31/12/11** | **31/12/12** | **31/12/13** |
| **LVL million** | 446,32 | 446,32 | 427,82 | 384,86 | 362,52 |

In light of those developments and findings, the Commission has asked Latvia to provide additional information and explanations.

(22) Latvia has confirmed through the submissions set out in recital 9 that those additional measures have already been put into effect.

### 2.5 The breach of the commitment to divest the Wealth Management Business of Citadele

(23) Latvia has failed to comply with its commitment to divest the Wealth Management Business of Citadele by 30 June 2013 without a Divestiture Trustee, or by 31 December 2013 with a Divestiture Trustee, which was recorded in the Parex Final Decision[19]. Therefore that commitment to divest the Wealth Management Business by those deadlines has been breached.

## 3 POSITION OF THE LATVIAN AUTHORITIES

### 3.1 On the un-notified maturity extensions of the subordinated debt

(24) In its submissions of information regarding the un-notified aid which are mentioned in recital 9, as well as in the revised restructuring plan, the Latvian authorities submit that the Commission had been informed of the possibility of the maturity extension of the subordinated debt on a number of occasions. In consequence, Latvia considers that the longer maturity of the subordinated debt does not entail un-notified State aid.

(25) More specifically, Latvia expresses the view that:

(i) The Commission had been informed of the possibility of the maturity extension of the subordinated debt on a number of occasions, as it was expressly referred to in the restructuring plan and the reports of the Monitoring Trustee.

(ii) According to the final version of the restructuring plan, it was not planned that the subordinated debt would be fully repaid by 2017. In addition, the restructuring plan assumed when determining the eligible capital for calculating capital adequacy that the maturity of the subordinated financing would be

[19] See recital (73) of the Parex Final Decision.

extended to avoid suffering from a 20% amortisation rate starting from the fifth year and until maturity.

(iii) In line with those provisions, the Parex Final Decision provided that the subordinated loans were expected to mature in the period 2015-2018, thus envisaging a prospective extension of the subordinated debt.[20]

(26) Moreover, Latvia has argued that the payment by Citadele of interest rates in excess of market conditions allays any State aid concerns that could exist.

(27) Finally, Latvia notes that discussions […] are currently being held […].

### 3.2 Regarding the un-notified liquidity support granted to Reverta

(28) Latvia explained that it provided Reverta with liquidity in excess of the support limits in the Parex Final Decision because the deposits from the State were not transformed into capital support by capitalising the principal of State treasury deposits to the extent that had been envisaged in that Decision. That transformation did not occur because after Reverta's banking licence had been revoked the relevant Latvian legislation no longer required statutory capital to be maintained. The Parex Final Decision had mentioned capitalising LVL [40-110] million of principal in the base case, whereas in fact only LVL 12,4 million of principal was capitalised.

(29) Latvia argues that capitalising less principal benefitted the State because:

(iv) Latvia receives interest on liquidity aid but has no income from capital aid;

(v) Latvia remains a senior secured creditor rather than junior equity holder, which ensures higher recoverability of funds in case of insolvency or liquidation, given that the State Treasury will have priority towards proceeds collectable within the insolvency process;

(vi) The capital invested as Tier 1 will not be recovered by the State[21]; and

(vii) There is more burden-sharing by legacy minority stakeholders as a result of interest payments by Reverta to the State.

### 3.3 Regarding the breach of the commitment for Wealth Management Business divestment

(30) Latvia states that the return of Citadele as a stand-alone entity to the private sector would have been put at risk if Citadele had divested the Wealth Management Business by 30 June 2013 as foreseen in the restructuring plan of 2010 or, in any event before Latvia had divested its stake in Citadele. Latvia claims that Citadele without the Wealth Management Business has no viable business model.

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[20] In that respect, Latvia points to recital 148 of the Parex Final Decision.

[21] Recital (49) of the Parex Final Decision.

(31) The Latvia has therefore requested the Commission to amend the Parex Final Decision in order to allow Citadele to retain the Wealth Management Business until after the entire bank passes to the private sector.

(32) Such a request was first made in August 2012 in discussions between Latvia and the Commission before the Amendment Decision was taken. During those discussions the Latvian authorities ultimately decided not to request an extended deadline for divesting the Wealth Management Business.

## 4 ASSESSMENT

(33) Pursuant to Article 13(1) in conjunction with Article 4(4) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union[22] the Commission may open a formal investigation procedure if it finds that doubts are raised as to the compatibility with the internal market of an unlawful aid measure.[23]

### 4.1 Existence of unlawful aid

(34) Article 107(1) of the Treaty provides that, save as otherwise provided in the Treaty, 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 is in so far as it affects trade between Member States, be incompatible with the internal market.

(35) As described in recital (21), Parex banka and subsequently Citadele and Reverta have obtained measures from Latvia in addition to the aid measures examined in the Rescue Decisions and the Parex Final Decision.

(36) ***With regard to the subordinated debt,*** the fact that such a measure contains State aid was established in the first rescue Decision, when the Commission approved the issuance of subordinated debt with five years maturity as a compatible aid measure. The Commission decided at that time that a market economy investor would not have granted subordinated debt with a five-year maturity[24].

(37) The measure which was in fact granted by Latvia in favour of Parex banka was identical with the measure approved by the Commission except for the fact that it had a longer maturity. As such, the measure which was in fact granted would also be State aid unless the longer maturity eliminated any advantage to Parex banka. However,

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[22] OJ L 83, 27.3.1999, p. 1.

[23] Under Article 1 of Regulation (EC) No 659/1999, unlawful aid means new aid put into effect in contravention of Article 108(3) of the Treaty – i.e. without notification to the Commission of aid measures before they are put into effect.

[24] Recital (40) of the first rescue Decision.

subordinated debt with a seven-year maturity would give the borrower a greater advantage since the risk perceived by an investor for any given investment increases as the maturity of the investment is extended. When the subordinated debt with a seven-year maturity was granted, it would have been even less likely for a market economy investor to grant the subordinated debt under those extended terms than it would for it to have done so for five years. For that reason, the longer maturity of the subordinated debt represented an additional advantage for Parex banka compared to the form of the subordinated debt that was approved in the Rescue Decisions and the Parex Final Decision.

(38) The maturity of the subordinated debt was later further extended by an additional 18 months. As the risk perceived by an investor for any given investment increases as the maturity of the investment is extended, a market economy investor would not have granted the subordinated debt under those extended terms in the absence of any countervailing payment fully offsetting the investor's increased risk. For that reason, the longer maturity of the subordinated debt represents an additional advantage for Citadele compared to the form of the subordinated debt that was approved in the Rescue Decisions and the Parex Final Decision.

(39) Latvia justifies granting subordinated loans with a longer maturity than approved by claiming that the Commission had been informed of a possible maturity extension through the restructuring plan and submissions of the Monitoring Trustee.

(40) The Commission does not accept that argument. The possible need to extend the maturity of the subordinated loan was only incidentally mentioned, for information, by the Monitoring Trustee in previous monitoring reports (e.g. that of 30 June 2012) as an option under consideration by Latvian authorities. A mention of the possibility that additional aid may be granted by a Member State does not constitute or substitute for a formal notification of aid measures, within the meaning of Article 108(3) of the Treaty.

(41) Latvia also contends that the recital 148 of the Parex Final Decision explicitly provided that the subordinated loans were expected to mature in the period 2015-2018, thus envisaging a prospective extension of the subordinated debt.

(42) The Commission does not share that interpretation. Recital 148 of the Parex Final Decision refers to the subordinated loans by legacy shareholders in Parex, and not to the subordinated loans granted by Latvia.

(43) ***With regard to the liquidity support granted to Reverta***, it was initially approved as part of the compatible State aid measures approved in the first rescue Decision, in the form of State deposits. At that time, the Commission noted that Parex banka lacked liquid collateral and that Latvia had deposited the funds, taking into account the bank's liquidity needs, when no market investor was willing to provide liquidity in view of the fragile situation of Parex banka.[25]

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[25] Recital (41) of the first rescue Decision.

Following the Parex Final Decision (and the split in a good and a bad bank) the liquidity aid was subsequently transferred to Citadele and Reverta. The former has already repaid in full its share of the liquidity support, whereas the latter had to limit the amounts of liquidity support it received, as set out in recital (21)(iii). However, the amount of liquidity support actually granted to Reverta exceeds even the worst case scenario level approved within the Parex Final Decision. That additional liquidity support provides a supplementary advantage for Reverta compared to the aid approved by the Rescue Decisions and Parex Final Decision. None of the other features of the liquidity support apart from its quantity have been altered and so the Commission concludes that the measure constitutes State aid.

(44) None of those three additional measures (the seven-year subordinated loan; the 18-month extension; and the additional liquidity support) had been notified to the Commission. Latvia has therefore not complied with the standstill obligation under Article 108 of the Treaty.

(45) Based on the facts that:

- both the longer initial maturity and the extended maturity of the subordinated debt and the increased liquidity support clearly represent additional advantages compared to the approved aid measures, and therefore are additional aid (as all of the other criteria under Article 107(1) of the Treaty are still in place); and

- the absence of any notification to the Commission for those additional aid measures,

the Commission therefore considers that the measures described in recital (21) represent unlawful aid.

## 4.2 Compatibility of the aid

### 4.2.1 The subordinated loans with extended maturity

(46) In line with the 2008 Banking Communication[26] which was in force when the subordinated loan was initially granted and when it was subsequently extended, in order for aid to be compatible, it had to comply with several conditions:

- appropriateness (to be well targeted to its objective, e.g. to remedy a serious disturbance in the economy, and take the most appropriate form for that purpose to remedy the disturbance),
- necessity (to be necessary to achieve the objective, and remain at the minimum necessary to do that)
- proportionality (the positive effects of the aid must be properly balanced against the distortions of competition, in order for the distortions to be limited to the minimum necessary to reach the measures' objectives).

[26] Communication on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis,, OJ C 270, 25.10.2008.

(47) The objective of granting a subordinated loan qualifying as Tier 2 capital to Parex banka was to enable it to continue to satisfy the capital adequacy ratio and to ensure that it is sufficiently capitalised so as to better withstand potential losses, in order to avoid a serious disturbance in the Latvian economy

(48) In the first rescue Decision, the Commission noted that the subordinated debt for Parex banka was limited to the minimum necessary in scope and time. Among other elements, the limitation to the minimum necessary was based on the commitment of the Latvian authorities to grant subordinated debt with a maximum maturity of five years. In that regard, the Commission noted in that decision that the minimum maturity for the subordinated debt to qualify as Tier 2 capital under Latvian legislation was five years. The aid measure was therefore qualified as compatible.

(49) The second and third rescue Decisions, the Parex Final Decision and the Amendment Decision did not alter the assessment of the first rescue Decision in that respect, concerning the limitation to the minimum necessary.

(50) The Commission notes that Latvia has not brought forward arguments to demonstrate the compatibility of the aid stemming from the extended maturity of the subordinated loans.

(51) Therefore, based on the information available to Commission at this time, the un-notified aid measure concerning the subordinated debt issued with a maturity of seven years instead of five years as initially approved cannot be qualified as compatible, considering that: a) the existing assessment is that a five-year maturity of the subordinated debt was what ensured limitation to the minimum necessary and b) no new arguments have been presented for justification of compatibility.

(52) Equally, based on the information available to Commission at this time, the un-notified aid measure concerning the additional prolongation of the subordinated debt maturity by 18 months cannot be qualified as compatible, considering that: a) the existing assessment is that a five year maturity of the subordinated debt was what ensures limitation to the minimum necessary and b) no new arguments have been presented for justification of compatibility.

(53) The Commission invites Latvia and any interested parties to present it with additional elements relevant to whether the seven-year duration of the subordinated loan and its subsequent extension by 18 months constitutes aid which was limited to the minimum necessary.

### 4.2.2 The liquidity support measure

(54) The assessment of the restructuring plan in the Parex Final Decision was based on assumptions presented at that time regarding the expected inflows of liquidity into

Reverta which would allow it to start repaying the liquidity support granted in the form of State deposits, up to a certain level.[27]

(55) The amounts expected to remain unpaid, as described in the Parex Final Decision, ranged from LVL […] million (the base case scenario) to LVL […] million (the worst case scenario). As explained in recital (21), the actual amounts from which Reverta has benefited have constantly exceeded those laid out in the Parex Final Decision.

(56) The Commission notes that Latvia has not brought forward arguments to demonstrate the compatibility of the aid stemming from the additional liquidity support.

(57) In view of this, and considering also the fact that the revised restructuring plan presented by Latvia includes numerous other adjustments compared to the plan approved through the Parex Final Decision, the Commission is not in the position at this time to qualify the additional liquidity support as compatible with the internal market. A more in-depth assessment of the impact the revised levels of liquidity support will have to be carried out, taking into account the revised restructuring plan in its entirety.

### 4.3 The breach of the commitment to divest the Wealth Management Business

(58) Pursuant to Article 16 of Regulation (EC) No 659/1999 the Commission may open a formal investigation procedure if aid is misused, i.e. if the beneficiary used aid in contravention of a decision taken pursuant to Article 7(3) of that Regulation.

(59) In the Parex Final Decision[28] Latvia committed that Citadele would divest the Wealth Management Business by certain deadlines.

(60) Latvia confirmed that the Wealth Management Business has not been divested within the agreed deadlines. This constitutes a breach of the terms of the Parex Final Decision and hence a misuse of the aid granted. The Commission invites Latvia and interested parties to comment on that conclusion and to present any elements which would allow the Commission to consider whether aid obtained by Citadele could be considered compatible with the internal market if the Wealth Management Business were not to be divested separately from Citadele.

## 5 CONCLUSION

The Commission concludes, in regard to the unlawful aid described in recital (21), that doubts are raised as to the compatibility with the internal market based on the information available at this time. The Commission therefore has decided to open a formal investigation procedure pursuant to Articles 13(1) and 4(4) of

[27] Recital 55 of the Parex Final Decision.

[28] See recital (73) of the Parex Final Decision.

Regulation (EC) No 659/1999.

Moreover, the Commission concludes that the breach of commitment described in recital (23) constitutes misuse of aid. The Commission therefore has decided to open a formal investigation procedure also for misuse of aid pursuant to Article 16 of Regulation (EC) No 659/1999.

In the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union, requests Latvia to submit its comments and to provide all such information as may help to assess the measures (in particular the compatibility of the un-notified aid), within ten working days of the date of receipt of this letter. It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.

The Commission would draw your attention to Article 14 of Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.

The Commission warns Latvia that it will inform interested parties by publishing this letter and a meaningful summary of it in the Official Journal of the European Union. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the Official Journal of the European Union and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within ten working days of the date of such publication.

If this letter contains confidential information which should not be published, please inform the Commission within five working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to publication of the full text of this letter. Your request specifying the relevant information should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
B-1049 Brussels
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Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President