



## EUROPEAN COMMISSION

Brussels, 10.8.2012

C(2012) 5736 final

<p>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 [...].</p>		<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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**Subject: State aid SA.34747 (2012/NN) - Amendments to Parex restructuring plan - Latvia**

Sir,

### **I Procedure**

- (1) By decision of 15 September 2010 (hereinafter "the Parex final Decision")<sup>1</sup>, the Commission approved, based on the commitment paper submitted by the Latvian authorities on 3 September 2010, the restructuring plan of Parex, submitted after the bank had received a package of aid measures (including liquidity support, guarantees, recapitalisation and asset relief measure) designed to support the stability of the financial system. Those measures had been initially approved on 24 November 2008<sup>2</sup> (hereinafter "first rescue Decision") on a temporary basis. Following Latvia's request, the Commission approved two series of changes to those measures by decisions of

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<sup>1</sup> Commission Decision of 15 September 2010 in case C 26/200 *On the State Aid which Latvia is planning to implement for the restructuring of AS Parex banka*, OJ L 163, 23.06.2011.

<sup>2</sup> Commission Decision of 24 November 2008 in case NN68/2008 *Public Support Measures to JSC Parex Banka*, OJ C 147, 27.6.2009, p. 1.

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11 February 2009<sup>3</sup> (hereinafter "second rescue Decision") and 11 May 2009<sup>4</sup> (hereinafter "third rescue Decision").

- (2) As noted in recitals (72) to (96) of the Parex final Decision, the Latvian authorities and Parex provided, among others, the following commitments in order to allow the Commission to find the restructuring aid to Citadele banka and Parex banka compatible with the internal market:
  - (i) a commitment to divest the CIS loans<sup>5</sup> transferred to Citadele banka at the latest by [...] and, if not sold by that date, to grant to a divestiture trustee an exclusive mandate to sell the CIS loans by [...];
  - (ii) a commitment to pay a remuneration for the asset relief measure each year in which Citadele banka's capital adequacy ratio is not lower than 12% on solo basis and 8% at group level, provided that the relevant amount does not lead to Citadele banka showing losses in the relevant year;
  - (iii) a commitment imposing caps on new lending (in terms of volume) and on the total loan portfolio (in terms of market shares) of Citadele banka in the Baltic countries.
- (3) On 6 March 2012, the Latvian authorities officially notified to the Commission their request (hereinafter "the request") to amend the commitments recorded in the Parex final Decision. Those amendments, as updated by the submission of Latvia of 22 June 2012, concern: 1) extending the disposal deadline for the CIS loans until [...] (hereinafter "the CIS loans disposal deadline extension"); 2) increasing the limit of minimum capital adequacy requirements allowed for Citadele banka at the level of the bank and the group before the asset remuneration is triggered (hereinafter "the asset remuneration trigger"); 3) allowing carry-over of previous years' unused caps on lending, whilst respecting market share caps (hereinafter "the caps on lending").
- (4) The Commission requested further information regarding the implementation of the asset relief remuneration for 2011 on 21, 22, 25 and 27 June and on 26 July 2012. The Commission received the replies of the Latvian authorities on 22, 25, 26, 28 and 29 June, on 4 and 19 July and on 1 August 2012.
- (5) The Latvian authorities have informed the Commission that for reasons of urgency they exceptionally accept that this Decision is adopted in the English language.
- (6) As one of the amendments was put into effect before the Commission's approval, the case has been registered as non-notified aid.

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<sup>3</sup> Commission Decision of 11 February 2009 in case NN 3/2009 *Amendments to the Public support measures to JSC Parex Banka*, OJ C 147, 27.6.2009, p. 2.

<sup>4</sup> Commission Decision of 11 May 2009 in case N 189/2009 *Amendments to the Public support measures to JSC Parex Banka*, OJ C 176, 29.7.2009, p. 3.

<sup>5</sup> I.e. loans to borrowers located in the Commonwealth of Independent States.

## II Facts

### 1. Description of Parex and of the commitments

- (7) 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 had subsidiaries in Lithuania and Switzerland (AP Anlage & Privatbank AG), as well as branches in Estonia, Sweden and Germany, a pan-Baltic asset manager and several leasing companies operating in the Commonwealth of Independent States (hereinafter "CIS"). Due to its excessive reliance on large, short-term non-resident deposits and of its involvement in CIS markets severely affected by the financial crisis, Parex banka incurred in 2008 consolidated losses of LVL 131 million (EUR 185 million) compared to a profit of LVL 40 million (EUR 58 million) in 2007, and was no longer able to meet regulatory solvency requirements. A more detailed description of Parex banka has been included in recitals 11 to 15 of the Parex final Decision.
- (8) As a result of the problems it faced, Parex banka was partially nationalised through the acquisition of the entire ownership of the former majority shareholders at a symbolic total purchase price of 2 LVL (approx. 3 EUR)<sup>6</sup>. In April 2009, the European Bank for Reconstruction and Development (hereinafter "EBRD") concluded a share purchase agreement, whereby the EBRD would acquire 25% of the share capital of Parex banka plus one share.<sup>7</sup>
- (9) In order *inter alia* to restore its long-term viability Parex has received the aid measures specified in recital (1). The restructuring plan foresaw *inter alia* that the assets of Parex banka be split into a newly established bank named AS Citadele banka (hereinafter "Citadele banka"), a so-called "good bank", taking over all core assets and some non-core assets (in particular, CIS performing loans, the Lithuanian subsidiary, branches in Sweden and Germany and the wealth management business, the latter including the Swiss subsidiary) and a so-called "bad bank" (Parex banka) which kept the remaining non-core and non-performing assets (including CIS non-performing loans). Citadele banka was registered on 30 June 2010 and most assets were transferred to it on 1 August 2010.
- (10) Those measures were approved by the Commission in the Parex final decision in light of the commitments made by the Latvian authorities, Citadele banka and Parex banka. Those commitments included among others divesting the CIS loans transferred to Citadele banka by Citadele banka itself at the latest by [...] or, in the alternative, by the [...] trustee by [...]; paying a remuneration for the asset relief measure each year in which Citadele banka's capital adequacy ratio is not lower than 12% on solo basis and 8% at group level, provided that the relevant amount does not lead to Citadele banka showing losses in the relevant year; and imposing caps on Citadele banka's lending in the Baltic countries.

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<sup>6</sup> After the recapitalisation has been approved as rescue aid, Latvia further increased its participation in Parex banka to about 95%.

<sup>7</sup> As of 28 February 2010, Latvia, through the Privatisation Agency, held 76.63% of paid-in capital with 71.74% of voting rights.

## **2. Description of the requests**

### **2.1 The CIS loans disposal deadline extension**

#### *Original measures in the Parex final Decision*

- (11) According to the commitments submitted by the Latvian authorities in view of the Parex final Decision, Citadele had to divest the CIS loans at the latest by [...] (CIS loans First Divestiture Period) and, if not sold by that date, it had to grant to a divestiture trustee an exclusive mandate to sell the CIS loans by [...] (CIS loans Trustee Divestiture Period). Further, until the closing of the sale of the CIS loans, Citadele banka would not grant any new loans to clients from the CIS countries and to clients whose ultimate beneficiaries are from the CIS countries. Moreover, Citadele banka and its affiliated undertakings were allowed to disburse funds only when the formal loan contract had been signed before the transfer date. In addition, Citadele banka was to cease granting further advances on existing loans save for situations where it is necessary to preserve or increase the probability of Citadele or its affiliated undertakings being repaid on outstanding loans. Any such advances were to be limited to a maximum of 2% of the previous year's loan portfolio.

#### *Difficulties experienced by Citadele in abiding with the disposal deadline*

- (12) As at the end of 2011, the outstanding loan portfolio amounted to LVL 82.8 million (as opposed to LVL [>100] projected in the restructuring plan) and the majority of the loans mature by the end of 2013 (most of them in 2012 and 2013, 54% and 40% respectively). Only LVL [0-10] million would remain outstanding at 31 December 2013. That portfolio is highly concentrated, with [...] related groups of customers representing [...] of total loans (based on data as of 30 June 2011). [...] and [...] represent majority of the loans in terms of country of business. As at 30 June 2011, the CIS loan portfolio of Citadele bank consisted of 22 related groups of clients or 39 loans. The loan portfolio is running down quicker than estimated in the restructuring plan, as lenders opt for early redemption to Citadele banka and refinancing with another bank. Also, market conditions are not favourable for such a sale.
- (13) For those reasons, the sale of the CIS loans portfolio is likely to require a [...] discount upon the sale (estimated by the bank and the advisor to range between [...]), which would have a significant negative impact on Citadele banka's capital.

#### *New commitments from the Latvian authorities and Citadele banka*

- (14) The Latvian authorities request an extension of the disposal deadline by Citadele bank itself for the CIS loans (CIS loans First Divestiture Period) until [...]. If the CIS loans are not divested from Citadele banka by [...], the Latvian authorities and Citadele banka commit to run them down or to appoint a divestiture trustee to sell the CIS loans in the CIS loans Trustee Divestiture Period (the period of six months from the end of the CIS loans First Divestiture Period).
- (15) To ensure the viability of the Citadele banka, the Latvian authorities and Citadele banka commit to comply with the regulatory requirements at all times, including the requirement to limit each bank exposure to 25% of Citadele banka's regulatory capital.

- (16) In addition, to facilitate the disposal of the CIS loans, the Latvian authorities and Citadele banka also commit to offer and to allow potential buyers to purchase the CIS loans separately from the rest of the bank.

## **2.2 The asset relief remuneration trigger**

### *Original measures in the Parex final Decision*

- (17) According to the commitments submitted by the Latvian authorities which are noted in the Parex final Decision, the remuneration of the asset relief measure should be paid every year in which Citadele banka's capital adequacy ratio on a solo basis is not lower than 12% and the capital adequacy ratio at group level is not lower than 8% as long as the relevant amount does not lead to Citadele banka showing losses in the relevant year. The remuneration to be paid to Latvia by Citadele banka was to take the form of costs in the profit and loss account, i.e. before the establishment of the annual net income. That commitment was to apply until the closing of the sale of Citadele banka.

### *Difficulties experienced by Citadele in abiding with the asset relief remuneration commitment*

- (18) Making use of its prerogatives, the Latvian regulator (FCMC) has recently increased the absolute minimal capital adequacy ratio for the Citadele group to 10%.
- (19) In that context, the Latvian authorities argued that Basel II uses a "three pillars" concept - (1) minimum capital requirements, (2) supervisory review and (3) market discipline. Pillar I requires credit institutions to meet the 8% minimum capital adequacy ratio at any given day. However, Pillar I only concerns the risks that credit institutions are dealing with on a daily basis. Pillar II requirements are in place to address all the risks. Pillar II requires an internal capital adequacy assessment process by the bank, which needs to assess the adequate level of requirements for its risk profile. Latvia submits that this assessment may result into a Pillar I capital adequacy ratio of [10-15] % for the bank and [10-15] % for the group (based on 30 June 2011 data). According to Latvia, it should constitute the target capital ratio for the bank in order to ensure sound management of its capital. For those reasons, Latvia argues that a buffer of 0.5% above minimum regulatory capital requirements should be allowed for the group.
- (20) In addition, Latvia informed the Commission that the capital adequacy ratio of Citadele banka may need to be further increased in view of the implementation of the proposed Capital requirements directive (also known as Basel III)<sup>8</sup>. According to the calculations as at 31 December 2011, the bank and group would not have been compliant with Common equity Tier 1 (CET 1) capital and Total Tier 1 capital ratios' requirement under Basel III rules, which the FCMC is planning to implement as of

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<sup>8</sup> Commission proposal for a directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, COM (2011) 453 final, 20 July 2011.

1 January 2013 without a transitional period. The bank's CET1 capital ratio equals its Tier 1 capital ratio. The estimated CET 1 and Tier 1 ratios were [...] % and [...] % for the bank and group respectively, whereas the minimum required total Tier 1 ratios are 7% (assuming 2.5% for counter-cyclical capital buffer) and 6% respectively. Thus, any payments made to the State as part of their current obligation for the year would reduce Tier 1 capital, thereby putting the bank and the group at risk of non-compliance with the minimum capital requirements when they enter into force. Therefore, Latvia argues for the need to consider the upcoming capital needs when calculating the relevant ratios and asks the Commission to modify the commitment set out in recital 81 of the Parex final Decision. That modification would replace the last two sentences of the mentioned recital with the following formulation: "The remuneration shall be paid every year in which Citadele banka's capital adequacy ratio at the level of the bank and at the level of the group is not lower than (1) the current minimum regulatory requirement as determined by national regulator + 0.5% buffer, or (2) the future minimum regulatory requirements as determined by national regulator up to one year before they are effectively in force + 0.5% buffer, as long as the relevant amount does not lead to Citadele banka at the level of the bank showing losses in the relevant year or the bank's and group's capital ratios falling below the above mentioned thresholds, until the closing of the sale of Citadele Banka."

#### *Replacement burden-sharing measures*

- (21) In terms of replacement burden-sharing measures, Latvia submitted that the bank has repaid State liquidity measures, amounting to LVL 143 million, in February 2012, ten months earlier than envisaged in the restructuring plan. Moreover, the bank relies to a lower extent on State aid measures than envisaged in the plan (in terms of lower volume of State guarantees and lower expected losses to the State from the asset relief measure due to the withdrawal of the banking licence from Parex banka as of 5 March 2012). As a consequence, Latvia proposes to modify the commitment described in recital 87 of the Parex final Decision in order, on the one hand, to reduce the existing allowed State aid limits in the form of a liquidity facility from LVL 1,500 million to LVL 1,200 million. On the other hand, Latvia commits not to grant directly or indirectly additional capital to Parex in whatsoever form after 31 December 2011, instead of after 31 December 2013 as indicated in the Parex final Decision and to reduce the maximum total amount of capital provided to Parex banka by Latvia to LVL 118.7 million, from LVL 218.7 million previously.

### **2.3 The caps on lending**

#### *Original measures in the Parex final decision*

- (22) According to the commitments submitted by the Latvian authorities which are noted in the Parex final Decision, Citadele banka and its affiliated undertakings were to cap the volume of their new gross lending and market share in terms of total loan portfolio in Latvia, Lithuania and Estonia.

#### *Difficulties experienced by Citadele in abiding with the caps on new lending*

- (23) "Pre-split Parex" (i.e. former Parex before the split, see recital (9) above) had not conducted business for more than two years due to restrictions imposed by the regulator, which meant that no lending was in the pipeline until the split of the bank.

The result was that the initiation of lending activity by the newly created Citadele banka was slower than envisaged in the restructuring plan. As a result, in 2010 the bank supplied LVL [<25] million of gross new lending versus an allowed amount of LVL [28-40] million and in 2011 LVL [<100] million versus LVL [115-165] million. In addition, the bank experiences high loan redemptions, which were not anticipated in the restructuring plan.

- (24) As a result, the bank's loan portfolio has declined by 9.4% since the end of 2010 and stands at some [...] below the restructuring plan's figure. The resulting lack of loan volume has a significant impact on the bank's profitability. As a consequence, Latvia asks the Commission to introduce a phrase in recital 77(a) of the Parex final Decision, stating that: "In the event that the new lending caps have not been fully utilised in a calendar year, those caps can be rolled forward in each of Latvia, Lithuania and Estonia, subject to remaining within the respective countries' total market share caps."

*Replacement measures to mitigate distortions of competition*

- (25) Latvia and Citadele banka propose to close by 31 December 2012 the Swedish branch with deposit-taking operations (amounting to LVL 18 million of deposits, which at 31 December 2011 were capped at LVL [40-55] million).

*Commitments from the Latvian authorities and Citadele banka*

- (26) Citadele banka will continue to respect its commitments regarding caps on its market shares in lending in terms of total loan portfolio in Latvia, Lithuania and Estonia.

### **3. POSITION OF THE LATVIAN AUTHORITIES**

#### **3.1. The CIS loans disposal deadline extension**

- (27) Latvia submitted that the CIS portfolio is running down significantly quicker than anticipated in the restructuring plan. Due to the restrictions applying to the bank which do not allow it to make any new CIS loans, borrowers opt for early redemption to Citadele banka and refinancing with another bank. In addition, market conditions have deteriorated considerably since 2010, thus [...] increasing a potential discount.
- (28) The Latvian authorities argue that a forced sale of the CIS loan portfolio by the bank before [...] would require a [...] discount. Such a discount would lead to losses and would consequently have a significant negative impact on the capital position of Citadele banka.
- (29) Therefore, Latvia asks to extend the disposal deadline for the CIS loans portfolio until [...].

#### **3.2. The asset relief remuneration trigger**

- (30) Latvia submitted that in the context of the strengthening of the capital requirements across Europe the FCMC has set a higher minimal CAR for Citadele group of 10%, which is higher than the ratio envisaged in the Parex final Decision (8%). According to the Latvian authorities, that material change in the regulatory requirements could not be foreseen at the time of the restructuring plan.

- (31) Therefore, Latvia is asking the Commission to amend the asset relief remuneration so that it is only triggered when the bank's and the group's relevant capital adequacy ratios exceed minimum regulatory requirements plus a buffer of 0.5%, and to introduce a clause allowing it to take into consideration new regulatory requirements (to which 0.5% buffer will apply) up to one year before they enter into force.

### **3.3. The caps on lending**

- (32) Latvia requests the Commission to amend the Parex final Decision so as to allow carrying forward unused lending allowances (as per the caps on gross new lending amounts) from previous years to the following years, if the bank respects the respective market share caps on loan balances.
- (33) In that regard, the Latvian authorities argued that due to early repayment of the bank's loans by the borrowers and a slow initiation of its lending activity, the loan portfolio decreased by approximately [...] as compared to the projected volumes in the restructuring plan. The resulting lack of loan volume has a significant impact on the bank's profitability. The Latvian authorities and the bank quantified the negative impact for 2010 and first half of 2011 at LVL [...] million in Latvia and at LVL [...] million in Estonia.
- (34) The Latvian authorities maintain that in order to meet the restructuring plan projections, to ensure the bank's viability and to protect the value of the bank to support the sale, the bank needs to issue new loans up to the allowed caps. If the bank is not allowed to carry forward *unused* new lending, it will result in a further decrease of assets, which will have a further negative impact on the bank's revenue and hence on capital and viability.
- (35) Upon the Commission's request, Latvia also clarified that there is no appropriate data in Latvia to monitor market share development in terms of new loan production.
- (36) In conclusion, the Latvian authorities contend that the proposed amendments will not affect the capability of Citadele banka to restore its viability, nor will they affect any of the commitments that Citadele banka made to compensate for any distortion of competition. Therefore, the amendments proposed by Citadele banka and submitted by the Latvian authorities are consistent with the Parex final Decision and enable the full achievement of its objectives. The Latvian authorities underline that complete withdrawal from the Swedish deposit market and earlier repayment of the State liquidity measures represent a significant addition to Parex' restructuring efforts overall.

## **III. Assessment**

### **5. Legal basis**

- (37) Regarding the legal basis for the present decision, it should be noted that the questions regarding the extension of the deadline for the CIS loans disposal, modification of the terms for the asset relief measure remuneration and allowing carrying forward of the previous years "unused" capped new lending amounts arise in the context of the implementation of the Parex final decision. This Decision will thus deal with the implementation of the Parex final Decision.



- (38) The present decision is a decision *sui generis*. Although it is not explicitly foreseen in Regulation (EC) No 659/99, a Member State may request the Commission to replace or amend a measure identified in a final restructuring decision. Since the Latvian authorities have submitted such a request, the Commission must assess whether the extension of the deadline for the CIS loans disposal, the modification of the terms for the asset relief measure remuneration and the carry-forward of the previous years' "unused" capped new lending amounts should be permitted.

### **5.1 The CIS loans disposal deadline extension**

- (39) As regards the extension request, the Commission has to assess whether the request is sufficiently reasoned and if the failure to implement the divestment is through no fault of Citadele banka.
- (40) The Commission recalls that as noted in recital 72 of the Parex final Decision, the bank must divest the CIS loans by [...]. To carry out the divestiture, Citadele banka had to find a purchaser and enter into a final binding sale and purchase agreement for the sale of the CIS loans by no later than [...] (CIS loans First Divestiture Period). If Citadele banka had not entered into such an agreement by that date, it had to grant the divestiture trustee an exclusive mandate to sell the CIS loans by [...] (CIS loans Trustee Divestiture Period).
- (41) The Commission observes that the disposal of the CIS loans was proposed by Latvia and the bank in the context of the rationalisation of the latter's business and a focus on its core markets (see recitals 34, 40, 48, 52 and 134 of the Parex final Decision). The Commission furthermore observes that the bank effectively stopped CIS lending activities before the Parex final Decision was taken.
- (42) The Commission notes that the Latvian authorities have provided detailed data to demonstrate a significantly quicker running down of the CIS loan portfolio (see recital (12) above). Given the limited amounts involved and the run-off mode of the loan portfolio as well as the prevailing market conditions, the Commission agrees with the opinion of the Latvian authorities that a sale of such loans at present or in the coming months is likely to require a [...] discount [...].
- (43) In addition, the Commission observes that allowing Citadele banka to run-down the CIS loans will reduce or entirely eliminate its potential losses compared to the situation if the bank were required to sell the loans at present. As a result, it will reduce the likelihood of the bank needing further State aid to cover such losses.
- (44) The Commission furthermore observes that the Latvian authorities have requested a deadline extension for divestment of the CIS loans by Citadele banka itself until [...]. In practise, however, most of the CIS loans will be disposed of by [...], with a delay of only [...] in substance compared to the original final deadline to divest them by a Divestiture Trustee.
- (45) In light of the above, the Commission finds that the proposed amendment to extend the CIS loans First Divestiture Period until [...], thus allowing Citadele banka to amortise to a large extent by that date, does not significantly alter the Parex restructuring plan as approved by the Parex final Decision. The earlier redemption of a significant share of the CIS loans coupled with a later disposal of the outstanding ones will overall achieve

the same objective as envisaged in the Parex final Decision, i.e. Citadele banka's timely and complete exit from the CIS lending market and raising revenue from the disposal of that portfolio. The objective to limit the risks related to the CIS lending with a view of restoring long-term viability of Citadele banka will thus be fully achieved.

- (46) In that context, the Commission positively notes that the Latvian authorities and the bank undertook to ensure that the regulatory requirements, including limitations on large exposures, will be complied with at all times and that, upon the sale of Citadele banka, potential purchasers will be offered and allowed to purchase the CIS loans separately from the rest of the bank.
- (47) For those reasons, the Commission finds it appropriate to grant an extension of the deadline for the divestment of the CIS loans by Citadele banka until [...] (CIS loans First Divestiture Period). If not sold by that date, the portfolio will be run down or a divestiture trustee will be appointed to ensure the complete disposal of the portfolio by the bank in the CIS loans Trustee Divestiture Period (i.e. the period of six months from the end of the CIS loans First Divestiture Period).

## **5.2 The asset relief remuneration trigger**

- (48) With regard to the requested change to the terms of the asset relief remuneration, the Commission observes that it needs to assess whether the request by the Latvian authorities is sufficiently reasoned and that the difficulties to implement the commitment stem from circumstances outside the control of Citadele banka.
- (49) The Commission notes that the commitment regarding the asset relief remuneration required the bank to pay the asset relief remuneration on the basis of its ability to pay without endangering its long-term viability. The Parex final Decision allowed for the bank to maintain a higher capital adequacy ratio than the strict minimum at the bank level (12% vs. regulatory minimum of 8%), whilst that ratio at the level of the group was limited to 8%, thus corresponding with the regulatory minimum at the time of the final decision (see recitals 126 and 127 of the Parex final Decision).
- (50) The Commission notes positively that the need for the State support to Parex banka, which has the effect of the asset relief measure in favour of Citadele banka, was reduced as compared to the restructuring plan by withdrawing the banking licence from Parex banka.
- (51) As for the regulatory changes, the Commission finds it appropriate to take into account the changing nature of the regulatory requirements, by adjusting the wording of the relevant commitment, so that the figures are replaced by a reference to the minimum regulatory requirements, as requested by Latvia (see recital (20)).
- (52) In view of the current tendency for bank regulators to require increasingly higher capital requirements and the forthcoming implementation of the Basel III requirements, (see recital (20) above), it is also appropriate to introduce a clause into the commitment allowing the bank to keep a higher capital ratio, if more stringent regulatory requirements are to be enforced within one year's time.
- (53) In addition, a buffer of 0.5% above the regulatory requirement appears to be

appropriate so as to allow the bank to manage its capital position, when the risk weighted assets change, without requiring it to raise additional capital.

- (54) As regards the replacement measures proposed by the Latvian authorities and Citadele banka, the Commission finds that given the scope of and the reasons for the amendment, an earlier repayment of the State liquidity measures can be considered adequate to counter-balance the effects of the amendment in terms of burden-sharing.
- (55) For those reasons, the Commission finds it appropriate to amend the terms of the asset relief remuneration as set out above.

### **5.3 The caps on lending**

- (56) With regard to the requested change to the caps on gross new lending volumes, the Commission observes that it needs to assess whether the request by the Latvian authorities is sufficiently reasoned, and to determine whether the nature of the requested modification coupled with the additional measures proposed by the Latvian authorities and Citadele banka are equivalent and sufficient to ensure that the measures mitigating competition distortions imposed on Citadele banka in the Parex final Decision are not in any way reduced.
- (57) According to the commitments provided by Latvia and Citadele banka in the context of the Parex final Decision, the lending operations were cumulatively capped in terms of both gross new lending in absolute amounts and market share of total loan balances in %.
- (58) The Commission observes that in light of the caps committed to by the bank, it could have provided larger volumes of gross new lending in 2010 and 2011 than it effectively did (see recital (23) above). In addition, the bank experiences higher loan redemptions than envisaged in the restructuring plan. As a result, the bank's loan portfolio has declined by 9.4% since the end of 2010 and stands at some [...] below the restructuring plan figure. Since the cap on new lending applies to gross new lending volumes, it does not take into account loan redemptions.
- (59) The Commission underlines that the Latvian authorities' request only provides for carrying forward unused lending caps and does not change in any way the market share caps applying to the total loan balances. Given the declining trend in Baltic lending markets which has occurred to a larger extent than envisaged in the restructuring plan, that cap significantly restricts the market presence of the bank.
- (60) Having regard to the effects of the change on competition and the replacement measures offered by the Latvian authorities and the bank, in particular, the closure of the Swedish branch, the Commission finds it appropriate to carry forward unused cap amounts whilst respecting the market share caps.

## **IV. Conclusion**

- (61) For the reasons set out above and given the commitments provided by the Latvian authorities and Citadele banka, the Commission can agree to the extension of the deadline for the CIS loans disposal until [...], the modification of the asset relief remuneration trigger and the carry forward of “unused” capped new lending amounts

in the previous years as long as market share caps are respected.

## **V. Decision**

The Commission regrets that Latvia put one of the amendments into effect, in breach of Article 108(3) TFEU.

However, in light of the commitments provided by Latvia, it has decided:

- i) to extend the deadline to divest the CIS loans until [...]; taking note of the commitment provided by Latvia and Citadele banka that in case the divestment is not carried out by the mentioned date, the CIS loans will be run down or a divestiture trustee will be appointed so as to sell the CIS loans in the CIS loans Trustee Divestiture Period (the period of six months from the end of the CIS loans First Divestiture Period).
- ii) to amend the asset relief remuneration so that it is only due to the extent that the bank's and the group's relevant capital adequacy ratios exceed the minimum regulatory requirements at the level of the bank and the group (at present, 10%) plus a buffer of 0.5%, unless it brings the bank or the group below the future minimum national regulatory requirements (plus a buffer of 0.5%) that are to be enforced within the following year;
- iii) to allow carrying forward the unused lending cap amounts in the previous calendar years, subject to Citadele banka respecting the market share caps.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen 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 the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>  
Your request 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