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Competition DG

Markets and cases III: Financial services
State aids III: Task Force Financial crisis

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Mr Tchobanov Atanas

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Subject: SA.42089 (2015/CP) - Submission on absence of remuneration for State deposit

Dear Mr Tchobanov,

Thank you for your mail dated 18 May 2015 notifying us of alleged infringements of State aid rules of the European Union. We understand that you are concerned that the Bulgarian authorities failed to comply with Community Law in the case of First Investment Bank AD ("FIB") and Investbank. More precisely you claim that according to the data from the Bulgarian National Bank reports for the first trimester of 2015, the deposits labelled State Governance do not generate interest's expenses for these banks.

We have analysed your submission; however, we invite you to consider the following facts:

Firstly, the decision to grant State aid or not is a prerogative of the national authorities only, not of any other undertaking, and the Commission has to ensure that it complies with State aid rules. The Member State does not have an obligation to grant aid, as Article 107 (1) TFEU prohibits State aid in general. As a matter of principle, State aid is not compatible with the Treaty and therefore not allowed, unless very strict conditions are met.

In the case of Bulgaria, a liquidity support scheme for banks was approved by the Commission¹ as being compatible with EU State aid rules. Based on the Commission Decision, the scheme could only be used to support solvent banks that do not have any capital shortfall.

As you know the Bulgarian authorities granted liquidity support to FIB in the form of a State deposit as part of a Bulgarian liquidity scheme approved by the Commission. On 25 November 2014, the Commission also approved the extension of the State deposit for FIB. No other bank or other financial institution received aid except FIB in 2014 and 2015.

We would like to clarify that the points 109 to 114 of the public version of the decision indicate the range for the remuneration of the deposit. The public version of the decision is available here: http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_39854

¹ Please see the non-confidential version of the Commission decision, available under the case number SA.38994 in the State Aid Register on the competition website, for a detailed description of the scheme: (http://ec.europa.eu/competition/state_aid/register/)

In addition, Bulgaria appointed a Monitoring Trustee to ensure the correct implementation of the restructuring plan and the commitments contained in it as the payment of the remuneration of the deposit.

The Commission follows closely the monitoring of the implementation of the decision and can confirm that FIB fulfilled all the commitments of the decision including the interest's payment for the deposit made in the scheme of the above mentioned decision.

The amount of interests paid by FIB on the government deposit is included in the consolidated data of the annual reports of FIB (published on the website of the Bulgarian National Bank). These reports for 2014 and for the first trimester of 2015 do not present a separated line for the deposits labelled "State Governance" but these generate interest's expenses for FIB.

Secondly, we have contacted the Bulgarian authorities which have clarified the issues brought forward in your submission.

They have confirmed that the information from BNB quoted in your submission is based on Macroprudential form 1. The authorities have also explained that the form has been in force since 01.01.2015 and by its nature, it is a statistical bank accounts form outside regulatory forms (General framework of financial reporting) — financial reporting (FINREP) and common reporting (CO REP) applied by the relevant implementing technical standards (ITS), uniform and binding for all Member States. In contrast, the Macroprudential form 1 does not foresee automatic validation rules, so that at least in the initial stage of implementation and reporting and by the banks cannot exclude gaps in information needs.

They have confirmed that FIB has paid interest on the State aid received but that the information has not been registered correctly in the BNB report of March 2015 (more precisely in the Macroprudential form 1. According to the authorities, this clerical error has been corrected in the report of May 2015.

The Bulgarian authorities have also clarified that Investbank has registered interest charges related to accounts of State-owned organisations but has not reported it correctly in the macro prudential "form 1", which will be corrected in the forthcoming report (more precisely in: "row 1.2. Government, column 8").

In conclusion, based on the above presented elements, the claims raised in your submission to DG Competition do not point to the breach of State aid rules of the European Union by the Bulgarian State. For this reason we will not propose that the European Commission initiates infringement procedures against Bulgaria for failure to comply with State aid rules.

If you have any new information that might affect the assessment of your submission, we should be most grateful to receive it at your earliest convenience and at any rate within four weeks of this letter.

Yours faithfully,



Christophe GALAND

Deputy Head of Unit

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