EUROPEAN COMMISSION

Brussels, 27.7.2012
C(2012) 5393 final

Subject: State aid SA.35129 (2012/N) - Lithuania
Prolongation of the Lithuanian bank support scheme until 31 December 2012

Sir,

1. PROCEDURE

(1) On 11 July 2012, Lithuania notified a request to prolong the bank support scheme by six months until 31 December 2012.

(2) The original scheme, which consisted of three measures - State guarantees for bank stability enhancement (hereafter "guarantee"), redemption of bank assets (hereinafter "asset relief") and subordinated loans to banks (hereinafter "recapitalisation") – was approved by the Commission on 5 August 2010 until 31 December 2010 (hereinafter "the original decision")[1]. To date, the Commission has approved three prolongations of the scheme:

- the first prolongation until 30 June 2011, approved on 21 January 2011 (hereinafter "the first prolongation decision");[2]
- the second prolongation until 31 December 2011, approved on 27 June 2011 (hereinafter "the second prolongation decision").[3]
- the third prolongation until 30 June 2012, approved on 6 March 2012 (hereinafter "the third prolongation decision")[4]

(3) By letter dated 16 July 2012 Lithuania exceptionally accepted that the decision be adopted in the English language.

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1 Commission decision in cases N 47/2010 and N 200/2010, OJ C 283, 20.10.2010, p. 1.
2 Commission decision in case SA.32188 (2011/N) OJ C 53, 19.2.2011, p. 4.
3 Commission decision in case SA.33135 (2011/N) OJ C 274, 17.9.2011, p. 5.
4 Commission decision in case SA.34288 (2012/N) OJ C 82, 21.3.2012, p. 4.

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2. DESCRIPTION OF THE NOTIFIED MEASURE

(4) In response to the ongoing exceptional turbulence in world financial markets, Lithuania initially brought forward the original scheme consisting of three measures designed to ensure the stability of the Lithuanian financial system and to remedy a serious disturbance in the economy of Lithuania. The guarantee measure aims at enhancing the liquidity of a bank or otherwise strengthening its stability and credibility. The asset relief measure aims at cleaning up balance sheets and restoring a bank's solvency. The recapitalisation measure aims at increasing the stability and credibility of a bank's activities by increasing its regulatory capital base. The three measures have been described in detail in the original Commission decision and the three prolongation decisions.

(5) Lithuania seeks to prolong the original scheme without any modifications from the date of the Commission's approval until 31 December 2012. The terms and conditions of the measures continue to apply without changes as last approved by the third prolongation decision.

(6) Beneficiaries of the scheme are banks whose financial situation is critical for the stability and credibility of the banking system, including foreign subsidiaries and branches of foreign banks established in the Republic of Lithuania.

(7) The prolonged scheme would be in force from the Commission's approval thereof until 31 December 2012.

3. POSITION OF LITHUANIA

(8) In line with the original decision, Lithuania accepts that the prolonged scheme constitutes State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU").

(9) Lithuania requests the Commission to authorise the prolongation of the recapitalisation, the guarantee and the asset relief measures until 31 December 2012. According to the Lithuanian authorities, the measures are necessary and proportionate to maintain macroeconomic and financial stability in Lithuania and to enhance investors' confidence in the Lithuanian financial market.

(10) Seeking to ensure national macroeconomic and financial stability, as well as to enhance foreign investors' confidence in the national financial market, the Bank of Lithuania recommended prolonging the support measures for another six months (by letter dated 28 June 2012).

(11) Lithuania undertakes to maintain all commitments made since the introduction of the scheme, which the Commission took into account in the original decision, as well as the commitments introduced in the respective prolongation decisions.

(12) Furthermore, Lithuania undertakes to report on the operation of the scheme and on guaranteed and non-guaranteed debt issuance by 15 October 2012. Lithuania also commits to report to the Commission the actual guarantee fee charged in relation to each issue of guaranteed debt within three months following each issue of guaranteed debt.

(13) The Lithuanian authorities claim that the prolonged measures, as the original scheme, are compatible with the internal market. Due to the on-going crisis, they are necessary to remedy a serious disturbance in the Lithuanian economy pursuant to Article 107(3)(b) TFEU.

4. ASSESSMENT OF THE MEASURE

4.1 State aid character of the Scheme

(14) As set out in Article 107(1) TFEU, 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 shall, in so far as it affects trade between Member States, be incompatible with the internal market.

(15) For the reasons indicated in the original decision, the Commission considers that the scheme constitutes State aid within the meaning of Article 107(1) TFEU. Lithuania shares that position.

4.2 Compatibility

(16) In the original and the prolongation decisions, the Commission considered the notified measures compatible with the internal market under Article 107(3)(b) TFEU.

(17) In line with the Banking Communication[5], in order for such aid to be compatible, any aid or aid scheme must comply with the general criteria for compatibility under Article 107(3) TFEU. Viewed in the light of the general objectives of the Treaty, it implies that the measures have to be appropriate, necessary and proportionate.

(18) The Communications concerning State aid to banks and applicable to the instruments envisaged under the present scheme - the Recapitalisation Communication[6], the Impaired Assets Communication[7] and the 2011 Prolongation Communication[8] - translate those general principles into specific compatibility conditions depending on the instrument chosen.

(19) The Commission considers that the exceptional circumstances at the origin of the initially notified measures persist in Lithuania, as in other Member States, and therefore recognises the need for extending the scheme. The letter from the Lithuanian Central Bank endorses that necessity (see point (10) above). In particular, the Central Bank states that the banking sector remains vulnerable since the Lithuanian economy is negatively affected by the current financial and economic crisis. Therefore, the Commission considers that the prolongation of the three measures – under the same terms as in the third prolongation decision – is appropriate and necessary to remedy a serious disturbance of the Lithuanian economy.

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5 Communication from the Commission 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, p. 8.

6 Communication from the Commission on the recapitalisation of financial institutions in the current financial crisis, OJ C 10, 15.1.2009, p. 2.

7 Communication from the Commission on the Treatment of Impaired Assets in the Community Banking Sector, OJ C 72, 26.3.2009, p. 1.

8 Communication from the Commission of 1 December 2011 on the application, after 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis, OJ C 356, 6.12.2011, p. 7.

(20) When assessing the request for the extension, the Commission has to balance the scheme's positive effects for financial stability against the distortions of competition that the extension entails and the delay in the return to a normal functioning of the financial markets. The prolonged scheme thus should contain exit incentives, and a gradual alignment to market conditions should take place in order to minimise negative spillover effects on competitors and other Member States. As last explained in the third prolongation decision, the Commission considers that the conditions of the scheme comply with those requirements.

(21) Moreover, Lithuania committed to respect the reporting obligation described in point 22 of the 2011 Prolongation Communication and will communicate to the Commission, within three months following each issue of guaranteed debt, the actual guarantee fee charged in relation to each issue of guaranteed debt.

(22) Lithuania undertakes to provide the Commission with a concise mid-term review of the operation of the scheme by 15 October 2012, and to complement such future reports with the data on guaranteed and non-guaranteed debt issuance. The reports on the operation of the scheme and the remuneration charged for the guarantees will allow the Commission to assess the appropriateness, necessity and proportionality of possible further prolongations of the scheme beyond 31 December 2012 and the conditions for such prolongations.

(23) The Commission also notes that Lithuania confirms that all the commitments made in relation to the original scheme and the respective prolongation decisions will continue to apply.

(24) In line with the Commission's decisional practise, the scheme is prolonged until 31 December 2012. Any further prolongation will require the Commission's approval and will have to be based on a review of the developments in financial markets and the scheme's effectiveness.

(25) Therefore, the scheme remains an appropriate, necessary and proportionate measure to remedy a serious distortion of the Lithuanian economy.

(26) Based on those considerations, the prerequisites for the compatibility of guarantee, recapitalisation and asset relief measures are met. Therefore, the notified prolongation is compatible with the internal market pursuant to Article 107(3)(b) TFEU.

5. DECISION

The Commission finds that the notified prolongation of the scheme is compatible with the internal market pursuant to Article 107(3)(b) TFEU for the period from the Commission's approval thereof until 31 December 2012. The Commission has accordingly decided not to raise objections.

The Commission notes that Lithuania accepts exceptionally that the decision be adopted in the English language.

The Lithuanian authorities have indicated that the notification does not contain any confidential information. The Commission will therefore disclose this letter to third parties publishing its full text on the Internet site:

http://ec.europa.eu/competition/elojade/isef/index.cfm

Yours faithfully,
For the Commission

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Vice-President