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The EU Commission finds that the amended and prolonged calculation methodology for guarantee fees to banks for large corporate financing provided for by Greece does not constitute State aid

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I. Introduction

On 20.1.2025 the European Commission found the amendment and prolongation of the Calculation Methodology for guarantee fees to banks for Large Corporate Financing to be compatible with EU State Aid Law. This comment aims to present the amendments proposed by the Hellenic Republic as well as the basic premises on which the European Commission based its decision not to raise objections.

II. The critical aspects of the amended Calculation Methodology

In order to comprehensively illustrate the proposed amendment, it is necessary to visit the initial scheme. This initial scheme linked two economic figures, that is the interest rate and the guarantee fee, through a function giving the so-called CDS rate. The Hellenic Republic, in order to calculate the guarantee fee to be given to the banking institutions in favour of non-SMEs, proposed the following formula:

Figure 1. R denotes the effective interest rate charged by the banking institution, F is the funding and administrative costs for Greek commercial banks and, G denotes the percentage of the outstanding loan amount being guaranteed (usually 80% or lower). $CDS(Greece)$ would be the current 5Y Sovereign Credit Default Swap rate of Greece. See points 23 and 24 of the Commission Decision in Case SA.102741.

In parallel, Greece provided for a table with the amount of guarantee fees (the so-called “total commission fee”) per rating class clearly stating that CDS rate could not be higher than that amount. Before explaining which part of the formula was amended, it is critical to examine the case where the CDS rate is higher than the guarantee fee. In such a

case there are two options:

- *either* the banking institution is called to reduce the interest rate it offers, thus reducing the CDS rate [once the numerator ($R-F-G \cdot CDS(Greece)$) is reduced, CDS rate variable is also reduced]
- *or* the large undertaking asks other banking institutions for better interest rates. In case no banking institution offers a better interest rate, the total commission fee automatically increases and equals CDS rate.

Nevertheless, after the application of that formula in 2022, the interest rates have not followed a stable route, with the banks being unable to offer interest rates similar to the interest rates offered in 2022. Therefore, CDS rate remains higher than the guarantee fees provided for in the table. Consequently, the Hellenic Republic chose to reduce the numerator ($R-F-G \cdot CDS(Greece)$) by increasing the funding and administrative costs (F). More precisely, the initial scheme provided for the application of a fixed funding and administrative cost of 0.75%, while the amended scheme provides for a variable funding cost equal to the base rate for Greece¹ that is published by the Commission in accordance with the *Communication on the revision of the method for setting the reference and discount rates* added to a fixed administrative cost of 0.25%. The revised scheme is to apply until 21.04.2028 instead of 21.04.2026 being prolonged for two years.

III. The assumptions of the European Commission

The decision at hand may be easily summarised as to the reasons why the European Commission did not raise objections: the main features of the mechanism remain the same, while the proposed amendments

1. The base rates per member state are available in https://competition-policy.ec.europa.eu/state-aid/legislation/reference-discount-rates-and-recovery-interest-rates/reference-and-discount-rates_en, last accessed: 16.02.2025.

render the mechanism closer to the market reality. Therefore, a detailed analysis of the Commission's reasoning is neither necessary nor useful; on the contrary, three assumptions made by the Commission have to be dully considered.

Firstly, as to the interpretation of the *Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees* the Commission stipulated in point 14 of its decision that the “alignment of the guarantee fees with the market prices” is required by section 2.3 (read in conjunction with section 3.4.f) of the Notice in order for the **lender** not to receive state aid. According to point 17 of the decision the calculation of the funding cost on the basis of the base rates reflects the actual market conditions and guarantees the required alignment.

Secondly, as to the prolongation of the scheme, the Commission explicitly took into account “the interests of the Member State and of undertakings receiving support evaluated under the new methodology to have greater stability in its application” (point 21). While stability is an appropriate element to be taken into account when assessing the prolongation (and even the amendment) of guarantee schemes, Commission's reasoning is problematic if it is to apply in general, since it is

not clear why the interests of the MS and of the “beneficiaries” are critical.

Thirdly, the Commission makes a crucial observation concerning the market for banking products. More precisely, the Commission recognised that “the market interest rates have been systematically increasing since mid-2022, thereby also increasing the funding costs of financial intermediaries” (point 17). This observation may be useful especially when examining the height of the loan interest rates and the characteristics of the market for giving loans even in antitrust or merger cases.

IV. Conclusions

The comment at hand illustrated in a comprehensive manner the amendments on the calculation methodology for guarantee fees to banks for large corporate financing. From a legal point of view, the interest of the decision lies on the three assumptions of the decision; namely, the application of the market price test in the frame of the aid to the lender assessment; the role of the MS and “beneficiaries” interest in stability and the condition in the market for granting loans.

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