

## V

*(Announcements)*PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION  
POLICY

## EUROPEAN COMMISSION

## STATE AID — HELLENIC REPUBLIC

**State aid No SA.31155 (2013/C) (ex 2013/NN) (ex 2010/N) — State aid to Hellenic Postbank S.A. through the creation and capitalisation of bridge bank 'New Hellenic Postbank S.A.'**

**Invitation to submit comments pursuant to Article 108(2) TFEU***(Text with EEA relevance)*

(2013/C 190/05)

By means of the letter dated 6 May 2013, reproduced in the authentic language on the pages following this summary, the Commission notified the Hellenic Republic of its decision to initiate the procedure laid down in Article 108(2) TFEU concerning the abovementioned aid/measure.

Interested parties may submit their comments on the aid measure in respect of which the Commission is initiating the procedure within one month of the date of publication of this summary and the following letter, to:

European Commission  
Directorate-General for Competition  
State aid Greffe  
1049 Bruxelles/Brussel  
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These comments will be communicated to the Hellenic Republic. Confidential treatment of the identity of the interested party submitting the comments may be requested in writing, stating the reasons for the request.

## TEXT OF SUMMARY

**PROCEDURES**

On 18 January 2013, a temporary credit institution "New TT Hellenic Postbank S.A." ("New TT") was established by the Greek authorities. The sound business activities of the former TT Hellenic Postbank S.A. ("TT") were transferred to New TT. In that context New TT received State aid in amount of EUR 4.6 billion by the Hellenic Financial Stability Fund ("HFSF").

In addition on 25 May 2009, TT had received a capital injection of EUR 224.96 million under the Greek Scheme <sup>(1)</sup>. Further by

decision of 16 May 2012 <sup>(2)</sup> in State aid case SA.34115 (2012/NN) on the Resolution of T Bank S.A. carried out in December 2011, the Commission authorised a resolution aid in amount of approximately EUR 678 million as compatible with the internal market on the basis of Article 107(3)(b) of the Treaty on the Functioning of the European Union ("TFEU") for a period of six months.

<sup>(1)</sup> See Commission decision of 19 November 2008 in State aid N 560/2008 "Support Measures for the Credit Institutions in Greece", OJ C 125, 05.06.2009, p. 6. The scheme has been prolonged several times.

<sup>(2)</sup> Commission decision of 16 May 2012 in case SA.34115 (2012/NN) "Resolution of T Bank", OJ C 284, 20.09.2012, p. 9.

#### DESCRIPTION OF THE MEASURES IN RESPECT OF WHICH THE COMMISSION IS INITIATING THE PROCEDURE

Firstly, on 18 January 2013, the HFSF provided New TT with its initial capital of EUR 500 million.

Secondly, as the transferred activities from TT to New TT contained EUR 4.1 billion less assets than liabilities, the HFSF covered the resulting so-called "funding gap" by granting EFSF bonds worth EUR 4.1 billion to New TT.

Thirdly, on 25 May 2009, TT had received a capital injection of EUR 224.96 million under the Greek Scheme.

Fourthly, on 17 December 2011, the Bank of Greece proceeded with the resolution of T Bank through a transfer order of its assets and liabilities to TT. As the value of the transferred liabilities was higher than the value of the transferred assets, the resulting funding gap of EUR 676 956 514 was covered pursuant to the relevant provisions by the Resolution Scheme of the Hellenic Deposit and Investment Guarantee Fund ("HDIGF").

#### ASSESSMENT OF THE MEASURES

Firstly, as regards the (i) capital injection amounting to EUR 0.5 billion and (ii) the coverage of the funding gap in the amount of EUR 4.1 billion by the HFSF in favour of New TT, the Commission considers both aid measures to be State aid for the purpose of Article 107(1) TFEU. Secondly, as regards the recapitalisation of TT in 2009, the Commission already concluded in its decision approving the Scheme<sup>(3)</sup> that the recapitalisation granted under that Scheme would constitute State aid. Thirdly, as regards the resolution aid granted to T Bank, the Commission established in its decision of 16 May 2012<sup>(4)</sup> that the intervention by the Resolution Scheme of the HDIGF constitutes State aid.

The legal basis for the assessment of the measures is Article 107(3)(b) TFEU.

As regards the compatibility assessment of the above-mentioned measures with Article 107(3)(b) TFEU, they are assessed by the

<sup>(3)</sup> See footnote 1.

<sup>(4)</sup> See footnote 2.

Commission upon the legal basis of the Banking Communication<sup>(5)</sup>, the Recapitalisation Communication<sup>(6)</sup> and the Restructuring Communication<sup>(7)</sup>.

As regards the compatibility of the measures, the Commission considers the form of the capital injection and the coverage of the funding gap into New TT appropriate as rescue aid to achieve the objective of restoring financial stability in the Greek banking system and economy as a whole. However, at this stage, the Commission doubts whether the amount of EUR 4.6 billion (EUR 0.5 billion in form of capital and EUR 4.1 billion in form of "funding gap" coverage) is limited to the minimum and invites interested parties to provide comments on that issue. Further the Commission considers that the both measures are proportionate as rescue aid in the short-term, but requires measures to be introduced rapidly to ensure aid is not used to fund growth or measures not strictly necessary to restore viability.

As regards the restoration of long-term viability under the Restructuring Communication, the Commission has doubts that New TT will be able to restore its long-term viability on a stand-alone basis, as planned in the restructuring plan submitted to the Commission on 29 January 2013 and updated in March 2013. The proposed measures in the restructuring plan to generate profits in the future seem to be very limited. Those doubts concern in particular the limited reduction of the personnel and of branches as well as the limited use of the possible synergies, i.e. the full integration of T Bank. In that context the Commission has doubts whether New TT has resources to achieve the goals set in the restructuring plan and, more precisely, to achieve the planned future profits. There is therefore a risk of New TT ending up as a bridge bank repeatedly relying on State aid. Therefore the Commission is, at this stage, of the opinion that the reintegration of TT into a larger viable financial company would increase the viability prospects of New TT. The Commission invites interested parties to comment on those doubts.

As regards the burden-sharing and the limitation of the aid to the minimum necessary, the Commission has doubts that the aid is limited to the minimum. In particular, the Commission doubts that the restructuring costs are limited to the minimum, because New TT is to be restructured on a stand-alone basis, which inflates the restructuring costs. The Commission invites interested parties to comment on that issue.

<sup>(5)</sup> Communication from the Commission - 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.

<sup>(6)</sup> Communication from the Commission - The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition, OJ C 10, 15.1.2009, p. 2.

<sup>(7)</sup> Commission Communication - The return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195, 19.8.2009, p. 9.

Further the Commission observes that a large part of the losses incurred by TT in the recent years stems from a waiver of debt in favour of the State, *i.e.* through the PSI and through the sale of Greek government bonds to the State at a deep discount to par at the end of 2012. Those measures could be considered as equivalent to a payment by TT to the State and therefore justify a lower remuneration on the recapitalisation aid subsequently granted by the State to cover the capital holes stemming from the debt waiver in favour of the State. Interested parties are invited to comment on that view.

As regards the distortion of competition, it can be observed that TT held far more Greek government bonds in proportion to its size than other banks in Greece. At this stage, the Commission considers that investment on that scale in those bonds could reflect some inappropriate risk-taking. The Commission invites interested parties to comment on that issue as well.

In accordance with Article 14 of Council Regulation (EC) No 659/1999, all unlawful aid can be subject to recovery from the recipient.

## TEXT OF LETTER

The Commission wishes to inform the Hellenic Republic that, having examined the information supplied by your authorities on the aid measures 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 ("**TFEU**").

## 1. PROCEDURE

- (1) On 19 November 2008 <sup>(8)</sup>, the Commission approved the Greek support measures for the credit institutions designed to ensure the stability of the Greek financial system (the "**Scheme**").
- (2) On 25 May 2009, TT Hellenic Postbank S.A. ("**TT**") received a capital injection of EUR 224.96 million under the Scheme.
- (3) The Greek authorities submitted information to the Commission on TT in February, March, May and June 2010.
- (4) By letter of 30 June 2010, the Commission's services requested the restructuring plan for TT to be submitted by 1 September 2010.
- (5) By letter of 22 July 2010, the Greek authorities requested an extension of the deadline for the submission of the restructuring plan until 30 September 2010. The Commission services agreed to the extension of the deadline on 23 August 2010.
- (6) On 1 October 2010, the Greek authorities submitted the initial restructuring plan for TT.
- (7) The restructuring plan was discussed between the Greek authorities and the Commission services in a series of meetings, teleconferences and other information exchanges between October 2010 and May 2011, in particular - amongst others - on 6 and 14 October 2010, 8 November 2010, 27 December 2010, 26 January 2011, 23 March 2011 and 13 April 2011.
- (8) On 17 December 2011, the Bank of Greece ("**BoG**") proceeded with the resolution of T Bank S.A. ("**T Bank**") by ordering a transfer of its good assets and liabilities to TT, which was already a shareholder of T Bank (holding around 32.9 % of its shares).
- (9) In March 2012, Greece and the EU/ECB/IMF updated the Memorandum of Economic and Financial Policies ("**MEFP**"). The MEFP sets out, among other economic and financial policies, that the Greek authorities have initiated an orderly resolution of TT through a Purchase and Assumption ("**P&A**") transaction. TT had been classified as non-viable in the framework of the viability assessment of all the Greek banks carried out by the BoG and its advisors, in consultation with the EU/ECB/IMF.
- (10) By decision of 16 May 2012 in State aid case SA.34115 (2012/NN) on the Resolution of T Bank <sup>(9)</sup>, the Commission authorised an intervention by the Resolution scheme of the Hellenic Deposit and Investment Guarantee Fund ("**HDIGF**") for an amount of EUR 676 956 514 as compatible with the internal market on the basis of Article 107(3)(b) TFEU for a period of six months. In that decision, the Commission required the Greek authorities to submit an updated restructuring plan for TT within six months. That plan was to take into account the integration of T Bank's activities into TT. In the decision of 16 May 2012 the Commission could not definitively conclude on the compatibility of the resolution aid to T Bank since the buyer of the bank's activities – TT – was itself an aided bank on which the Commission had not yet taken a decision on its restructuring, as well as on the restoration of TT's long-term viability. The Commission could therefore not conclude on whether the transfer of T Bank to TT was an adequate way to restore the viability of the transferred entity.
- (11) Further correspondence took place between the Greek authorities and the Commission services between May and December 2012.
- (12) In January 2013, the Greek authorities submitted a draft restructuring plan for a bridge bank of TT. Due to the absence of buyers for TT, no P&A transaction (as envisaged in the MEFP) could take place and the creation of a bridge bank was considered as the only remaining solution for the resolution of TT. The bridge bank received aid from the Hellenic Financial Stability Fund <sup>(10)</sup> ("**HFSF**") which (a) covered the so-called "funding gap" of the transferred perimeter and (b) provided the bridge bank with initial share capital.
- (13) The establishment of the bridge bank and its restructuring plan were discussed by the Greek authorities and the Commission services in a series of meetings, teleconferences and other information exchanges between

<sup>(8)</sup> See Commission decision of 19 November 2008 in State aid N 560/2008 "Support Measures for the Credit Institutions in Greece", OJ C 125, 05.06.2009, p. 6. The scheme has been prolonged several times. The last updated scheme is in place until 30 June 2013. See Commission decision of 22 January 2013 in State aid SA.35999 (2012/N) "Prolongation of the Guarantee Scheme and the Bond Loans Scheme for Credit Institutions in Greece", not yet published.

<sup>(9)</sup> Commission decision of 16 May 2012 in case SA.34115 (2012/NN) "Resolution of T Bank", OJ C 284, 20.09.2012, p. 9.

<sup>(10)</sup> The HFSF is a Fund originally established by Law 3864/2010 of the Greek Parliament. The Fund's resources stem from the financial support mechanism to Greece and its capital is gradually paid up by the Greek State. It is set up for a limited duration until 30 June 2017. For more details, see inter alia, Commission decision of 3 September 2010 in State Aid case N 328/2010 "Recapitalisation of credit institutions in Greece under the Financial Stability Fund (FSF)", OJ C 316, 20.11.2010, p. 7.

January and March 2013, in particular - amongst others - on 8, 11, 15, 22, 23 and 30 January and 12 March 2013.

- (14) For reasons of urgency, the Hellenic Republic exceptionally accepts that the present decision is adopted in the English language.

## 2. DESCRIPTION

### 2.1 TT Hellenic Postbank S.A.

- (15) TT was established in 1902 under the framework of the Hellenic Post Office Organisation. Until 2006, TT was a State-controlled special credit institution with activities limited to the granting of mortgages and consumer loans to public servants and publicly-owned companies. After having acquired a banking licence in 2006, TT expanded its activities to corporate finance and retail lending. In the same year, TT became listed on the Athens Stock Exchange through a public offering of 34.84 % of its existing shares. The Hellenic Republic remained its largest shareholder.

- (16) TT has a market share of 6 % in terms of deposits in Greece.

- (17) In 2009, when it received its first recapitalisation, TT had 146 own branches and 2 554 employees. TT had a balance sheet showing total assets of approximately EUR 16 billion and risk weighted assets ("**RWA**") of EUR 7.5 billion.

- (18) TT has a cooperation agreement with the Hellenic Post Office to market its products in approximately 800 branches of the latter. The contribution of that additional network to TT's services is 7 % of TT's total deposit base (which amounted to approximately EUR 12 billion in 2009).

- (19) Compared to its size, TT has a relatively large deposit base. TT had a loan-to-deposit ratio of less than 100 % in 2009.

- (20) On 25 May 2009, TT got a capital injection of EUR 224.96 million (corresponding to circa 2.9 % of its RWA at that time) under the Scheme<sup>(11)</sup> because its bank capital adequacy ratio ("**CAR**") was under the 10% minimum threshold set by the BoG for it.

- (21) On 3 July 2009, TT issued common shares in amount of EUR 526.3 million, which were then placed on the market. After the completion of the capital increases of May and July 2009, the bank's CAR amounted to approximately 17 %. TT's shareholding structure following the share capital increase of July 2009 was as follows: the Hellenic State with 44.04 % of which 10% was held through the Hellenic Post Office; individuals with 24.9 %; legal entities (domestic) owning 22.04 %; legal entities (international) owning 7.81 % and; own shares corresponding to 1.21 % ownership.

- (22) In April 2010, TT acquired 32.9 % of the share capital of Aspis Bank for an amount of EUR 28.56 million. After the acquisition, Aspis Bank was rebranded as T Bank. When that bank was acquired by TT, it was in a poor economic situation with the lowest capital adequacy among the Greek banks, insufficient liquidity and profitability.

- (23) Other participations held by TT are: (i) Post insurance (50 % shareholding), a company promoting and selling insurance and banc assurance products; and (ii) Attica Bank (22.4 % shareholding), one of the smallest banks (1.1 % market share in terms of total assets) in Greece.

- (24) On 17 December 2011, the BoG proceeded with the resolution of T Bank through a transfer order of its assets and liabilities to TT and at the same time, with the withdrawal of T Bank's license. T Bank was put into liquidation. TT acquired the package of assets and liabilities of T Bank as it had made the highest bid in the framework of an unconditional tender procedure open to other banks. The value of the net assets transferred from T Bank to TT at the resolution date amounted to EUR 1.5 billion<sup>(12)</sup>. TT took over 75 branches with 853 employees of T Bank.

- (25) As a result, TT's total assets increased by 16 % to EUR 18 billion and its deposits by 15 % to EUR 13.5 billion, compared to the standalone basis<sup>(13)</sup>. The acquisition of T Bank's assets had a negative impact on TT's capital adequacy due to the capital shortage of T Bank. However, TT's CAR stayed well above supervisory limit at the time as, on the consolidated basis, its CAR amounted to 15.7 %.

- (26) In March 2012, the BoG, based on an own 'viability framework' methodology applied to the entire Greek banking system, declared TT to be an unviable bank as it was highly unlikely that TT could remain viable under its current state. The situation of TT gave rise several concerns. Firstly, TT booked an exceptionally high loss in 2011, due to the Private Sector Involvement<sup>(14)</sup> ("**PSI**"). TT had held a portfolio of Greek government bonds ("**GGB**") which, compared to its balance sheet size, was much higher than that of the other Greek banks. As a result of that very large loss, TT's capital became deeply negative. Secondly, TT faced a structural problem of a low profitability which had lasted since 2008.

<sup>(12)</sup> Bain&Company assessment report regarding policies and procedures required to ensure effective liquidating bank asset management and recovery of February 2013.

<sup>(13)</sup> Financial impact analysis of the proposed merger between TT and T Bank performed by BoG, 19 July 2011

<sup>(14)</sup> Private Sector Involvement (PSI): negotiation between the Greek authorities and its private creditors which aimed to achieve a partial waiver of the Greek government debt by its private creditors on a voluntary basis. The PSI is extraordinary in nature and had a considerable impact on Greek banks. A series of banks made losses stemming from PSI. Those developments are described in more detail for instance in points 12 and 13 of the following document: "*The Second Economic Adjustment Programme for Greece - March 2012*", also available on [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2012/op94\\_en.htm](http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/op94_en.htm).

<sup>(11)</sup> See footnote 1.

- (27) The updated MEFP of March 2012 gives a preference to an orderly resolution of TT via a P&A transaction, implying that TT's good assets and liabilities would be put for sale to another existing bank. For that purpose, the BoG launched a call for an expression of interest to third parties for acquiring TT's good assets in December 2012. Three Greek banks expressed preliminary informal interest; however, by the deadline of 11 January 2013 for submitting binding offers, the Greek authorities had not received any such offers.
- (28) Therefore, in the absence of buyers, the Greek authorities considered that the creation of a bridge bank was the only remaining solution for the resolution of TT.

## 2.2. New TT Hellenic Postbank S.A.

- (29) On 18 January 2013, in the context of the Greek resolution framework<sup>(15)</sup> and in line with the provisions in the MEFP regarding the resolution of TT by January 2013, the Greek authorities announced the immediate creation and capitalisation of a temporary credit institution (a bridge bank) "New TT Hellenic Postbank S.A." ("**New TT**"), following a decree adopted by the Ministry of Finance<sup>(16)</sup> on a proposal by the BoG. In that context, the HFSF covered the so-called "funding gap" of the transferred perimeter *i.e.* the difference between the fair value of the assets transferred to New TT and the nominal value of the liabilities transferred to it. Since the former is lower than the latter, New TT had received a package having a negative value, which was compensated by a grant from the HFSF. In addition, the HFSF provided initial share capital to New TT amounting to EUR 500 million, fully and immediately paid up by the HFSF. As a consequence, HFSF is the sole shareholder of New TT. TT's bank licence was terminated.
- (30) TT's sound business activities were transferred to New TT, in accordance with the recommendation of the BoG<sup>(17)</sup>. Therefore, all the contractual relationships of TT with third parties were transferred to New TT. New TT received TT assets and liabilities such as cash, retail deposits and performing loans, central bank funding, GGB and T-Bills. Overall, EUR 10.8 billion assets ("**Transferred Assets**") were transferred to New TT.
- (31) A total amount of EUR 1.2 billion net assets were left into TT. In particular, non-performing loans, tax assets and liabilities of TT, and levies and duties of any kind were included in "non-transferred" items. Those residual assets remaining in TT will be resolved through liquidation.

<sup>(15)</sup> See the Greek law 4021/2011 on Bank Restructuring and the Law 3864/2010 on the Hellenic Financial Stability Fund. The Law 4021 of October 2011 amends the existing Greek banking legislation by providing for recovery as well as for resolution measures for credit institutions seated in Greece.

<sup>(16)</sup> Decree 2124/B.95 of the Hellenic Republic Ministry of Finance of 18 January 2013 establishing an interim credit institution by the name of "New TT Hellenic Postbank S.A."

<sup>(17)</sup> See Bank of Greece Resolution Measures Committee Decision 7/2/18.01.2013 on the authorisation of the interim credit institution by the name of "New TT Hellenic Postbank S.A." and Resolution Measures Committee Decision 7/3/18/01.2013 on the withdrawal of the authorization of the credit institution by name of "TT Hellenic Postbank S.A." and placing thereof under liquidation.

- (32) New TT was only fully operational as from 21 January 2013 as the operations of New TT were suspended from 4 to 21 January due to a strike of its employees. After the trade unions approved the tentative deal as regards the employment contracts, the operations of New TT could be resumed.
- (33) On 30 January 2013, New TT signed new contracts with all the employees of TT. In that context, New TT reduced its annual personnel costs on average by 30% and started with 2 998 employees of TT as well as another 358 outsourced employees, resulting in a total bank staff of 3 356. New TT has a network of 217 branches and 300 automated teller machines ("ATM").

## 2.3 New TT's restructuring plan

- (34) On 29 January 2013, the Greek authorities submitted an initial restructuring plan for New TT. The draft was updated in March 2013. The plan foresees the restructuring to take place between 2013 and 2017 ("the restructuring period")
- (35) The main strategic objective of New TT is to improve the bank's investor attractiveness and financial results with the aim of selling it to a third party. For that purpose, New TT's restructuring plan foresees an employee cost reduction with the implementation of a Voluntary Retirement Scheme ("**VRS**"), as well as operating cost reductions assuming a steady amount of assets.
- (36) Firstly, the VRS targets between 520 and 900 exits at a cost of approximately EUR 39 - 45 million, depending on the take-up by employees. A fully subscribed VRS would allow for annual savings of EUR 22 million. However, it is currently not clear when the VRS will be implemented. Moreover, there is still no concrete plan on the table as regards the future of the 358 outsourced staff that New TT employs.
- (37) In a base scenario assuming the implementation of the VRS, the restructuring plan foresees a steady number of employees of 2 478 during the restructuring period. According to the plan, the number of branches will also remain steady, at 197 during the same period, resulting in 12.6 employees per branch as from 2013 until 2017. 20 branches have been closed since the creation of New TT.
- (38) Secondly, regarding the reduction of operating costs, an agreement with the Hellenic Post Office has been achieved in order to reduce the network usage cost. In addition, New TT has already simplified its organizational structure, reducing its seven main divisions to five, a 29 % reduction in the number of departments. The plan also foresees a reduction in marketing and promotional costs. Non-essential on-going projects will be, or already have been, stopped.
- (39) Furthermore, New TT intends to re-price its loans and deposits in order to achieve a significant increase in its net interest income. On that basis, the plan foresees that New TT would become profitable again in 2014-2015. In the base scenario, its net interest income would

increase from EUR 132 million in 2013 to EUR 325 million in 2017, while its total operating income would increase from EUR 156 million in 2013 to EUR 339 million in 2017. New TT's personal expenses would be reduced to EUR 80 million in 2017, against equivalent expenses of EUR 149 million in 2012 for TT. Other operating costs would decrease by approximately 15 % from EUR 95 million in 2012 (compared to TT) to an annual average of EUR 80 million in the period 2015-2017. New TT's profit after tax would amount to EUR 123 million in 2017, resulting in a return on equity ("RoE") of 15.2 % in 2017.

- (40) As regards assets, New TT aims to have a relatively steady amount of total assets, of around EUR 12.5 billion during the restructuring period. New TT intends to shift its assets mix from core lending activities of mortgages and consumer loans into corporate banking. New TT's corporate lending activities are expected to double in the restructuring period, i.e. from EUR 1 billion to EUR 2.1 billion.
- (41) As regards funding, the ECB's exposure will be totally eliminated and 100 % of emergency liquidity assistance ("ELA") funding dependence will be replaced with market funding. The bank's deposit base will, on the other hand, remain stable.

#### 2.4. Aid measures

- (42) There are four aid measures which are relevant to the situation of TT, which will be described in chronological order. Firstly, on 25 May 2009, TT got a capital injection of EUR 224.96 million (corresponding to approximately 2.9 % of the bank's RWA at that time) in the form of preference shares under the Scheme<sup>(18)</sup> ("measure C"). The injection was made because TT's CAR amounted to 8 %, which was below the minimum threshold of 10 % set by the BoG. The measure increased TT's CAR from 8.74 % (as of March 2009) to 10.96 %.
- (43) That capital injection took the form of the issuance by TT of 60 800 000 non-voting, non-listed, non-transferable, tax deductible, non-cumulative preference shares. The issue price of EUR 3.70 for each share was fully subscribed and paid by the Hellenic Republic with bonds of equivalent value<sup>(19)</sup>. Those preference shares pay a non-cumulative dividend of 10 %, subject to meeting the minimum CAR requirements set by the BoG and to the availability of after-tax net profits or distributable reserves in accordance with article 44a of C.L. 2190/1920. During the five years following the issuance of the preference shares, the Greek Ministry of Finance could either convert the preference shares into ordinary shares in case of insufficient regulatory capital, or redeem TT's preference shares.
- (44) Secondly, on 17 December 2011, the BoG proceeded with the resolution of T Bank by ordering the transfer of its assets and liabilities to TT and withdrawing T Bank's license, in accordance with the law on resolution (Law 4021/2011). T Bank was put into liquidation. In that context, the fair value of the liabilities transferred

from T Bank to TT amounted to EUR 2 160 182 164 and the fair value of the transferred assets amounted to EUR 1 483 225 650. The difference was a so-called "funding gap" of EUR 676 956 514, which was covered by the Resolution Scheme of the HDIGF ("measure D").<sup>(20)</sup>

- (45) Thirdly, on 18 January 2013, the HFSF provided New TT with its initial capital of EUR 500 million, in exchange for which the HFSF received common shares with a nominal value of EUR 1 each ("measure A").
- (46) Finally, the Transferred Activities from TT to New TT contained a funding gap of EUR 4.1 billion resulting from the difference between assets and liabilities. As a result, the HFSF, by taking over the obligations of the HDIGF (in line with the provisions of L. 4051/2012 which clarify that, as from February 2012, the HFSF will take over HDIGF's obligation), made up for that funding gap by granting EFSF bonds worth EUR 4.1 billion to New TT ("measure B"). The measure was granted on 18 January 2013.
- (47) Table 1 summarizes those four aid measures.

Table 1: Overview of the aid measures

	Nature of aid	Legal entity which formally received the aid measure	Aid amount (in EUR million)
Measure A	Recapitalisation	New TT (bridge bank)	500
Measure B	Funding gap	New TT (bridge bank)	4 100
<b>Aid to the other entities</b>			
Measure C	Recapitalisation	TT	224.96
Measure D	Funding gap	TT	678

### 3. ASSESSMENT

#### 3.1 Existence of State aid within the meaning of Article 107(1) TFEU and quantity of State aid

- (48) The Commission has to first assess whether measures A, B, C and D constitute State aid within the meaning of Article 107 (1) TFEU. According to that provision, State aid is 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, in so far as it affects trade between Member States.

<sup>(18)</sup> See footnote 1.

<sup>(19)</sup> Under Law 3723/2008.

<sup>(20)</sup> In 2011, a resolution branch was created in the HDIGF with the adoption of the Resolution Framework in Greece. According to law 4021/2011, in the case of a transfer order: 'In case the value of the liabilities transferred to the transferee-credit institution exceeds the value of the assets transferred, the Bank of Greece shall determine the difference, to be covered as follows: a) the Depositors Branch of the HDIGF shall pay an amount equal to the value of the guaranteed deposits after deduction of the value of the transferred assets and b) the Resolution Branch of HDIGF shall pay the surplus.'

*Measure A*

- (49) The Commission notes that the capital injection by the HFSF into New TT, amounting to EUR 500 million (Measure A), was provided by the HFSF, an entity set up and financed by the Greek State. In the Commission decision approving the recapitalisations under the HFSF as compatible State aid<sup>(21)</sup>, the Commission notes that the HFSF receives its resources from the State and its activities are considered imputable to the State. It will stay in place until 2017 and after that its profits or losses will be borne by the State.<sup>(22)</sup> In the present case, the Commission similarly concludes that measure A was financed by the State or through State resources.
- (50) The Commission further notes that the capital injection provided a selective advantage to New TT, since it was a measure concerning New TT alone which enabled it to obtain capital it could not have found on the market. Given TT's precarious financial situation and the challenging economic situation in Greece which directly affects the banking sector, it is highly doubtful that any private investor would have injected capital into New TT under those conditions.
- (51) Furthermore, New TT, although a bridge bank, competes with other banks amongst which are subsidiaries and branches of foreign banks. Even if there has been a general withdrawal of foreign banks from the Greek market (e.g. sale of their Greek banking activities by Credit Agricole, Société Générale and BCP), any selective advantage may affect the timing and condition of a return of some foreign banks to the Greek market. Therefore, the capital injection may have an effect on trade and may also distort competition between the Member States.
- (52) The Commission concludes therefore that the capital injection by the HFSF into New TT constitutes State aid for the purposes of Article 107(1) TFEU.

*Measure B*

- (53) As regards measure B, the Commission notes that it was also granted by the HFSF. Therefore, on the basis of the above argument for measure A as described in the recital 49, the Commission considers that measure B contains State resources and is imputable to the State.

<sup>(21)</sup> Commission decision of 3 September 2010 in State Aid case N 328/2010 "Recapitalisation of credit institutions in Greece under the Financial Stability Fund (FSF)", OJ C 316, 20.11.2010, p. 7.

<sup>(22)</sup> More specifically, recital 46 of the Commission decision of 3 September 2010 in State Aid case N 328/2010 states that: 'The qualification of a measure as State aid first of all presupposes that the aid must be imputable to the State and financed by a Member State or through State resources. Neither imputability nor the presence of State resources are put into question by the fact that the Fund is independent. It is true that according to settled case-law regarding public undertakings it is not sufficient that the State is in a position to control a public undertaking and to exercise a dominant influence over its operations, but an actual exercise of that control must exist. However, in the present case the Fund is not acting as a public undertaking and its activities cannot be considered as falling into the sphere of a commercial market operator. Instead, the Fund is solely executing a public task. In addition it can be noted that the capital of the Fund is fully and solely paid by the Greek State, all seven members of the Fund's Board shall be appointed by a decision of the Minister of Finance and the Fund shall enjoy all the administrative, financial and judicial immunities applicable to the State.'

- (54) As regards the existence of a selective advantage, it should be recalled that measure B is a grant by the HFSF to New TT that covers a funding gap between the fair value of the assets transferred from TT and the nominal value of the transferred liabilities. Because that package of assets and liabilities had a negative value of more than EUR 4 billion, if measure B had not been granted to New TT, it would not have been possible to transfer TT's activities to another legal entity. They would then have been left in the liquidated TT and hence discontinued. Measure B thus allows the continuation within New TT of the economic activities previously carried out within TT. As measure concerns the transferred activities of TT and no other market operator it is by definition selective. The Commission considers New TT to be the economic beneficiary of the measure as it harbours TT's economic activities which continue to exist thanks to measure B.
- (55) In its earlier decisions<sup>(23)</sup> on resolution supported by State measures, the Commission already observed that all the key productive banking assets (employees, branches, deposits, part of the loans, as well as central services and infrastructure) were transferred to the bridge bank or to the buying bank. No private investor would have made such an investment if the funding gap was not covered.
- (56) Measure B distorts competition and affects trade for the reasons already developed in respect of measure A at recital 51. That selective advantage distorts competition by keeping the transferred activities alive and allowing them to continue competing on the market<sup>(24)</sup>, when the BoG declared TT to be unviable.
- (57) The Commission concludes therefore that the capital injection into New TT by the HFSF aimed at covering the funding gap constitutes State aid falling for the purposes of Article 107(1) TFEU.

*Measure C*

- (58) As regards the recapitalisation of TT in 2009 (Measure C), that capital injection was granted under the Scheme<sup>(25)</sup>. In the decision approving the Scheme, the Commission already concluded that recapitalisations granted under that Scheme would constitute State aid.

*Measure D*

- (59) The Commission recalls that it has already established in its decision of 16 May 2012<sup>(26)</sup> that measure D, the intervention by the Resolution scheme of the HDIGF in the amount of approximately EUR 0.68 billion in favour of T Bank's assets which were transferred to TT, constitutes State aid.

<sup>(23)</sup> See footnotes 14 and 15.

<sup>(24)</sup> See by analogy Commission decision of 25.01.2010 in the State aid case NN 19/2009 – Restructuring aid to Dunfermline Building Society, recital 51; Commission decision of 25.10.2010 in State aid case N 560/2009 – Aid for the liquidation of Fionia bank, recital 56; Commission decision of 8.11.2010 in State aid case N 392/2010 – Restructuring of CajaSur, recital 52.

<sup>(25)</sup> See footnote 1.

<sup>(26)</sup> See footnote 2.



### 3.2 Compatibility of the aid

#### 3.2.1. Legal basis for the compatibility assessment

(60) Article 107(3)(b) TFEU provides the legal basis for the Commission to declare aid compatible with the internal market if it is intended "to remedy a serious disturbance in the economy of a Member State". The Commission has acknowledged in several recent Greek State aid cases in the banking sector that there is a threat of serious disturbance in the Greek economy and that State support of banks is suitable to remedy that disturbance.<sup>(27)</sup> Despite a slow global economic recovery that has taken hold since the beginning of 2010, the Commission still considers that the requirements for State aid to be approved pursuant to Article 107(3)(b) TFEU are fulfilled in view of the reappearance of stress in financial markets. In December 2011 the Commission confirmed that view by adopting the Communication<sup>(28)</sup> on the application, from 1 January 2012, of State aid rules to support measures in favour of banks in the context of the financial crisis which prolongs the application of those State aid rules.

(61) In the light of the foregoing considerations, the Commission accepts that the capital injections by the HFSF (measure A) and the grant by the HFSF to cover the funding gap (measure B) can be analysed as State aid measures taken to avoid a serious disturbance in the economy of Hellenic Republic. In its decisions on the Scheme and on the resolution of T Bank, respectively, the Commission had already accepted that Article 107(3)(b) TFEU was the appropriate legal instrument to assess the recapitalisation of TT (measure C) and the resolution aid to T Bank (measure D).

#### 3.2.2. Compatibility assessment

(62) The compatibility of the measures A, B, C and D with Article 107(3)(b) TFEU are assessed by the Commission in light of the Banking Communication<sup>(29)</sup>, the Recapitalisation Communication<sup>(30)</sup> and the Restructuring Communication<sup>(31)</sup>.

(63) In line with the general principles underlying the State aid rules of the Treaty and taking into account the global financial crisis and the systemic risk associated with it, the Banking Communication (point 15) requires that all measures have to be:

- a. *Appropriate*: The aid has to be well-targeted in order to be able to achieve effectively the objective of remedying a serious disturbance in the economy;
- b. *Necessary*: The aid measure must, in its amount and form, be necessary to achieve its legitimate purpose of remedying a serious disturbance in the economy and must, therefore, not exceed the necessary minimum amount to attain that effect;
- c. *Proportionate to the challenge faced*: The distortions of competition resulting from the aid granted must be avoided or minimized as far as possible. Therefore, the aid measures must be designed in such a way as to minimize negative spill-over effects on competitors, other sectors and other Member States.

(64) The Recapitalisation Communication further details the level of remuneration required for State capital injections.

(65) Finally, the Commission should assess the measures under the Restructuring Communication, according to which a restructuring plan needs to: (i) demonstrate how the bank will restore long-term viability without State aid as soon as possible; (ii) address moral hazard by imposing appropriate own contribution ("burden-sharing") by the aid beneficiary to the restructuring costs; as well as (iii) ensure a competitive banking sector by limiting distortions of competition resulting from the aid granted, to the minimum necessary.

#### 3.2.3. Compatibility with the Banking and Recapitalisation Communications

(66) The Commission will first assess whether measures A and B can be temporarily approved as rescue aid. It will then review the situation as regards the compatibility of measures C and D.

##### a. Appropriateness of measures A and B

(67) As regards the measure A, the capital injection from the HFSF was needed in order to have capital in New TT and to enable New TT to adhere to the minimum capital adequacy ratio set by the BoG.

(68) The Commission considers that the capital injection of EUR 500 million is appropriate as rescue aid since it enabled the transfer of the economic activities of TT to New TT. Hence, the economic activities have not been wound-up. An immediate winding-up of TT's activities could have led to a bank run and could have triggered a serious disturbance on the Greek financial markets. A serious disturbance on the Greek financial markets could be avoided through the creation of New TT and the transfer of TT's economic activities into New TT.

(69) On that basis, the Commission finds that the measure A is appropriate as rescue aid.

(70) As regards measure B, the intervention by HFSF was needed in order to fill the gap between the fair value of TT's assets and the nominal value of its liabilities which were transferred to New TT.

<sup>(27)</sup> Commission decision of 22 January 2013 in State aid SA.35999 (2012/N) "Prolongation of the Guarantee Scheme and the Bond Loans Scheme for Credit Institutions in Greece", not yet published, Commission decision of 16 May 2012 "Resolution of T Bank",

<sup>(28)</sup> Commission communication on the application, from 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

<sup>(29)</sup> Communication from the Commission - 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.

<sup>(30)</sup> Communication from the Commission - The recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition, OJ C 10, 15.1.2009, p. 2.

<sup>(31)</sup> Commission Communication - The return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules, OJ C 195, 19.8.2009, p. 9.

- (71) The Commission considers that measure B is appropriate as rescue aid because it helps keep alive TT's economic activities which were transferred to New TT. Without measure B, those activities would not have been able to continue, as TT was on the verge of bankruptcy and in current difficult market conditions no bank would have acquired a package having a negative value (i.e. with the fair value of the assets lower than the fair value of the liabilities). The measure thereby ensures that financial stability in Greece is maintained in the short-term. On that basis, the Commission finds that the measure B is appropriate as rescue aid.
- b. *Necessity of measures A and B – limitation of the aid to the minimum*
- (72) According to the Banking Communication, the aid measure must, in its amount and form, be necessary to achieve the objective. It implies that the capital injection must be of the minimum amount necessary to reach the objective.
- (73) As regards measure A, the Commission has doubts that the amount is limited to the minimum necessary because the Member State envisages as one possible option that New TT is to be restructured on a stand-alone basis. The Commission doubts that the bank can be viable on a stand-alone basis. Hence, the Commission is of the opinion that State aid may be used for an option which is not realistic in the long-term. The Commission is of the opinion that the Hellenic Republic should also assess other options, which might be less expensive than the stand-alone option. At this stage the Commission is of the preliminary view that the stand-alone option might not be the cheapest option available and therefore it doubts that the State aid is limited to the minimum necessary. The Commission invites interested parties to provide comments on that issue.
- (74) As regards measure B, the Commission doubts that the amount exactly covers the difference between the fair value of the transferred assets and the nominal value of the transferred liabilities. That amount may be excessive. Therefore, the Commission would ask for more detailed information regarding the exact amount of assets and liabilities that were and were not transferred to New TT, as well as additional information regarding the pricing model used.
- (75) Furthermore, regarding the remuneration of measures A and B, the Commission has doubts on whether New TT will be able to sufficiently remunerate the State for the aid it received. The Commission observes that, in line with the Recapitalisation Communication, any recapitalisation of banks should, in principle, reflect the risk profile of the beneficiary, i.e. not fundamentally sound banks or, unviable banks, should pay higher remuneration than those that are fundamentally sound. The Commission notes that capital assistance to a bank which is unable to sufficiently remunerate the State for the received recapitalisation may only be accepted upon condition that (i) either the bank is wound-up, or (ii) a far-reaching restructuring plan is set-up, including a change in management and corporate governance where appropriate. In the present case, the Commission has doubts on whether New TT is a fundamentally sound bank and observes that New TT is not able to remunerate the measure A, the recapitalisation. In addition, no remuneration is foreseen for measure B, in the sense that the State did not receive any ownership rights in exchange. The coverage of the funding gap is therefore a definitive cost for the State without offsetting future revenues.
- (76) In conclusion, on a preliminary basis, the Commission considers that the forms taken by measures A and B to be necessary as rescue aid to achieve the objective of restoring financial stability in the Greek banking system and economy as a whole.
- (77) However, at this stage, the Commission doubts whether the amount of EUR 4.6 billion (measures A and B) is limited to the minimum. The Commission underlines that the absence of remuneration triggers a need for in-depth restructuring.
- c. *Proportionality of measures A and B – measures limiting negative spill-over effects*
- (78) The Commission notes that the legal entity TT will be liquidated and will exit the market. However, thanks to measures A and B, the economic activities of TT continue to exist in New TT, thereby producing negative spill-over effects. New TT should be rapidly subject to measures that will limit negative spill-over effects.
- (79) The Commission considers that measures A and B are proportionate as rescue aid in the short-term, but require measures to be introduced rapidly to ensure aid is not used to fund growth or measures not strictly necessary to restore viability.
- d. *Compatibility of measures C and D*
- (80) For measure C, the Greek authorities submitted a restructuring plan for TT Bank on 1 October 2010 in line with the requirement of the Scheme. Because of the rapid and substantial changes in the Greek banking sector since then, while there have been extensive exchanges between the Greek authorities and the Commission services, it has not yet been possible to take a final view on that restructuring plan. In the meanwhile, the situation of TT Bank has altered so significantly that the restructuring plan which was submitted in 2010 is no longer pertinent. It is therefore necessary, in line with point 16 of the Restructuring Communication, to examine measure C in light of the updated restructuring plan presented in March 2013.
- (81) In its decision of 16 May 2012, the Commission temporarily approved measure D, the resolution aid of T Bank, as compatible rescue aid for six months as from the date of adoption of that decision on the basis that the Greek authorities would submit to the Commission, within that six-month period, an updated restructuring plan for TT which took into account the integration of T Bank's activities into TT. In that decision of 16 May 2012, the Commission could not conclude that the transfer of T Bank's activities into TT allowed the restoration of their viability since TT was itself an aided bank required to submit a restructuring plan. The Commission could therefore not give a definitive approval of the aid to T Bank's activities which were transferred to TT.

- (82) The decision of 16 May 2012 further concluded that the temporary authorisation of the aid would be automatically prolonged on submission of an updated restructuring until the Commission reached a final restructuring decision on TT's restructuring plan.<sup>(32)</sup>
- (83) The Commission first notes that no standalone restructuring plan for TT was submitted by the Greek authorities by the end of the six-month period. While the Commission regrets that omission by the Greek authorities, it accepts that delayed submission was understandable since, as indicated previously, it has been required in the meantime in the MEFP that TT be resolved. Moreover, the Greek authorities submitted a restructuring plan for New TT in January 2013 which deals with the activities transferred from T Bank to TT. It is therefore necessary to examine the compatibility of measure D as restructuring aid in light of the compliance with the Restructuring Communication of the plan submitted by the Greek authorities in January 2013 and updated in March 2013. Until the Commission has taken a final decision on measures A, B, C and D as restructuring aid, the Commission considers that Measure D can be approved provisionally as rescue aid.
- 3.2.4. *Compatibility with the Restructuring Communication*
- (84) Because measures A, B, C and D all have the effect of allowing New TT to continue to operate on the market, the Commission must assess them individually and in combination in order to ensure that, as indicated in its Restructuring Communication, the restructuring plan will restore the viability of the company within a reasonable time span, that the aid granted by the measures is limited to the minimum necessary and ensures adequate burden-sharing, and that such aid is accompanied by measures which sufficiently limit distortions of competition.
- 3.2.4.1. *Restoration of long-term viability*
- (85) Under the HFSF law, the HFSF has the obligation to sell the shares it owns in any bridge bank after a number of years. Since the obligation is only to sell the shares, it can be a sale to any type of investor. Thus the sale does not necessarily entail the integration of New TT into a larger banking group; New TT could remain a standalone bank with only change being that it would have a new shareholder, for instance, a private equity group. Given the uncertainty about the type of the future owner, the notified restructuring plan is based on the continuation of the operations of the bank on a stand-alone basis, *i.e.* not merged into a larger bank.
- (86) As the Commission has indicated in its Restructuring Communication, the restructuring plan must restore the viability of the company within a reasonable time span. In that regard, the Commission notes positively that New TT reduced on average by 30 % annual personnel costs in January 2013.
- (87) However, the Commission has doubts that New TT will be able to restore its long-term viability on a stand-alone basis, as planned in the restructuring plan submitted to the Commission.
- (88) According to the restructuring plan, New TT plans to be profitable as of 2014. However, the proposed measures to generate profits in the future are very limited. Firstly, it is not clear whether New TT will manage to further reduce its personnel. Currently, the bank seems over-staffed compared to the services New TT offers. Moreover, the implementation of the VRS is uncertain as regards the timing and the acceptance rate by the employees. In that context, the VRS targets up to 900 potential persons and New TT plans to reduce headcount by approximately 520, as described in recital (36). No further steps are proposed in the restructuring plan to reduce personnel costs. For instance, no further indications are given as regards the future of 358 outsourced staff.
- (89) As regards branches, no further closure of branches is foreseen beyond the closing of 20 branches already implemented since the creation of the bridge bank. Additionally, the branches of TT are in the main cities, especially in the Attica region. TT took over T Bank in 2011, which had a similar concentration of branches presence in the Attica region. A rationalisation of the branch network did not take place after the acquisition of T Bank. T Bank seems to remain operating as a separate entity, on a separate IT-platform as well as having a different risk management system. Therefore, the Commission has doubts whether the potential to achieve synergies has been used. It doubts that viability can be restored by keeping T Bank separate, which was itself a non-viable bank.
- (90) Beside those limited cost-cutting measures, New TT's restructuring plan foresees re-pricing of loans and deposits. New TT aims at decreasing the deposit margins on existing deposits while, at the same time, increasing loan margins on new loan production. In that respect, the restructuring plan foresees that the interest margins paid by New TT on deposits will be decreased by 150 basis points ("**bp**") during 2013-2014 and a further 60 bp during 2015-2017. Loan margins will on the other hand increase by 70bp during 2013-2017. On that basis the interest income of New TT would significantly increase from EUR 433 million in 2013 to EUR 615 million in 2017. However, the Commission doubts that such ambitious re-pricing can be successfully implemented without losing a significant amount of customers and without making risky lending.
- (91) In that respect, the Commission observes that New TT intends to double its corporate loan book. However, it is not clear how New TT intends to achieve that significant increase. In the past the corporate segment was relatively small compared to the other activities of TT because TT entered that segment only in 2009. That loan portfolio has generated significant losses since then. It is therefore doubtful whether New TT has the expertise to grow in that segment on a viable and profitable basis.
- (92) Therefore it is questionable whether New TT has the resources to achieve the increase of income planned in the restructuring plan.

<sup>(32)</sup> See recitals (59)-(61) from Commission decision of 16 May 2012 "Resolution of T Bank".

- (93) Net interest income is an important income driver. If New TT does not manage to achieve the planned strong growth rate, it will not achieve the planned future profits or it will generate further losses in the future.
- (94) There is therefore a risk of New TT ending up as a bridge bank, repeatedly relying on State aid.
- (95) The Commission is at this stage of the opinion that the reintegration of TT into a larger viable financial company would increase the viability prospects of New TT. It would allow significant rationalisation of costs, would facilitate the re-pricing of deposits and of new loans, and would allow a wider range of products to be offered to customers, thereby achieving higher income through cross-selling.
- (96) The Restructuring Communication provides that if a bank cannot return to viability on a stand-alone basis, viability can be restored through a sale and integration into a larger entity. In that respect, point 17 of the Restructuring Communication clarifies that *the sale of an ailing bank to another financial institution can contribute to restoring long-term viability, if the purchaser is viable and capable of absorbing the transfer of the ailing bank and may help restoring market confidence.*
- (97) In conclusion, the Commission doubts that the restructuring plan submitted to the Commission on 29 January 2013 and updated in March 2013 will restore New TT's long-term viability. It therefore doubts that measures A and B can be found compatible with the Restructuring Communication.
- (98) Since the Commission has doubts about the restoration of the long-term viability of New TT which harbours the economic activities previously carried out within TT, including T Bank, the Commission has also to open a formal investigation procedure on whether measure D (coverage of the funding gap granted to the transferred activities of T Bank) and measure C (the recapitalisation of TT in 2009) offered a long-term solution for New TT's viability and hereby invites the Greek authorities to submit further information on that subject.
- 3.2.4.2 *Burden-sharing and limitation of the aid to the minimum necessary*
- (99) The Commission has doubts that the aid is limited to the minimum. In particular, the Commission doubts that the restructuring costs are limited to the minimum, because New TT is restructured on a stand-alone basis, which inflates the restructuring costs. The Commission doubts that New TT can be made viable on a stand-alone basis without incurring high costs, in particular to develop a sustainable personnel strategy, optimize the branch network, shift its assets mix to corporate lending and integrate T Bank, which includes developing a viable IT infrastructure and risk management structure. At this stage the Commission considers that the stand-alone option might not be the cheapest option and doubts that the State aid is limited to the minimum.
- (100) Concerning burden-sharing of shareholders and subordinated debt holders, the Commission notes that the shareholders and subordinated debt holders were not transferred to New TT but have remained in the entity in liquidation. Therefore, there is a high probability that they will lose their investments. That burden-sharing reduces the aid amount needed. Hence, the Commission considers that sufficient burden-sharing of shareholders and subordinated debt holders is achieved.
- (101) As regards the remuneration of the aid, the Greek State could expect to recover only part of the capital injections by the HFSF amounting to a total of EUR 500 million (Measure A). There will be no remuneration for the HFSF for covering the funding gap between assets and liabilities (Measure B). Further there is a very small likelihood of recovering much of the amount contributed by the HFSF. It is therefore highly probable that the EUR 4.1 billion granted is definitively lost.
- (102) Therefore the Commission considers that the burden-sharing, even if it probably represents the maximum of what is feasible for that distressed bank *i.e.* New TT, does not seem to meet the Communication's requirements. If that is the case, the absence of remuneration triggers the need for in-depth restructuring, both in terms of viability measures and in terms of measures to limit distortions of competition.
- (103) The Commission observes that a large part of the losses incurred in the last years stems from a waiver of debt in favour of the State *i.e.* through the PSI and through the sale of GGB to the State at a deep discount to par at the end of 2012. Those measures could be considered as equivalent to a payment by the bank to the State and therefore justify a lower remuneration on the subsequent recapitalisation aid granted by the State to cover the capital holes stemming from the debt waiver in favour of the State. The Member State authorities and interested parties are invited to comment on that view.
- 3.2.4.3 *Distortion of competition*
- (104) New TT has received EUR 4.6 billion of aid (EUR 0.5 billion in form of capital and 4.1 billion in form of "funding gap" coverage) which is a considerable amount of aid. That aid represents more than 70% of TT's RWA and more than 90% of New TT's RWA. Further the Commission notes that TT (which is the legal entity which previously performed the activities which are now harboured in New TT) had received aid in the past: TT received under the Scheme<sup>(33)</sup> a first capital injection of EUR 224.96 million in form of preference shares (measure C). Furthermore, on the resolution of T Bank, the transferred activities of T Bank, which were transferred to TT, received a resolution aid of approximately EUR 678 million (measure D). Such amounts of aid normally call for a deep restructuring and reduction of the market presence of the bank. Those requirements are even more acute if there is no remuneration of the aid, most of which will never be recovered. At the same time, a significant part of the losses which the bank incurred in recent years do not seem to stem from

<sup>(33)</sup> See footnote 1.

risk-taking activities but from the holding of government bonds. That factor may justify the view that the aid is creating fewer distortions of competition. However, it has also to be observed that TT was holding proportionally to its size far more GGBs than the other banks in Greece. At this stage, the Commission considers that apparently excessive investment in GGBs could reflect some inappropriate risk-taking. The authorities and interested parties are invited to comment on that view.

- (105) In terms of market presence, the Commission observes that the creation of the bridge bank is not a real resolution of TT as the restructuring plan of New TT foresees that New TT remains on the market nearly as TT was before.
- (106) TT was a medium-sized bank in Greece (approximately 6 % in terms of deposits). TT's assets and liabilities transferred into New TT are relatively small when compared with the size of the Greek banking system. Also, the bank has no foreign activities. Therefore, despite the exceptionally large aid amount, the distortions of competition caused by the aid to New TT could be considered to be rather limited.
- (107) However, to limit the risk that New TT would offer interest rates on deposits which are much higher than the interest rates on deposits of most of the competitors, a price leadership ban may be contemplated for New TT. Such a price leadership ban would decrease the probability that New TT uses the State aid to pay high interest rates and distorts competition on the market for deposits. Furthermore, to ensure that New TT does not expand its business and to limit the competition distortions, the Commission is of the view that some behavioural measures such as an acquisition ban and a ban on strong growth in lending would seem necessary.
- (108) At this stage, the Commission therefore doubts that sufficient measures are taken to limit undue distortions of competition.

### 3.3 Conclusion

- (109) In the light of the foregoing considerations, the Commission decides that measures A, B, C and D constitute State aid within the meaning of Article 107(1) TFEU and approves them provisionally as rescue aid. It doubts that those measures may be found compatible with the internal market pursuant to Article 107(3)(b) TFEU as restructuring aid, as they do not seem to comply with the requirements of the Restructuring Communication.

The Commission has accordingly decided to consider the aid to be temporarily compatible with the internal market within the meaning of Article 107(1) TFEU. Moreover, and in the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 108(2) of the TFEU, requests the Hellenic Republic to submit its comments and to provide all such information as may help to assess the restructuring aid, within one month of the date of receipt of this letter. In particular, it requests the Hellenic Republic to submit a new restructuring plan for New TT which addresses the Commission's doubts expressed in this decision. It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.

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

Finally, the Commission warns the Hellenic Republic 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 one month of the date of such publication.'