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II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Initiation of proceedings

(Case M.7000 — Liberty Global/Ziggo)

(Text with EEA relevance)

(2014/C 147/01)

On 8 May 2014, the Commission decided to initiate proceedings in the above-mentioned case after finding that the notified concentration raises serious doubts as to its compatibility with the internal market. The initiation of proceedings opens a second phase investigation with regard to the notified concentration, and is without prejudice to the final decision on the case. The decision is based on Article 6(1)(c) of Council Regulation (EC) No 139/2004 [1].

The Commission invites interested third parties to submit their observations on the proposed concentration to the Commission.

In order to be fully taken into account in the procedure, observations should reach the Commission not later than 15 days following the date of this publication. Observations can be sent to the Commission by fax (+ 32 22964301) or by post, under reference No M.7000 — Liberty Global/Ziggo, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

(1) OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

Non-opposition to a notified concentration

(Case M.7145 — Veolia Environnement/Dalkia International)

(Text with EEA relevance)

(2014/C 147/02)

On 7 May 2014, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 [1]. The full text of the decision is available only in English language and will be made public after it is cleared of any business secrets it may contain. It will be available:

— in the merger section of the Competition website of the Commission (http://ec.europa.eu/competition/mergers/cases/). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,

— in electronic form on the EUR-Lex website (http://eur-lex.europa.eu/en/index.htm) under document number 32014M7145. EUR-Lex is the online access to European law.

(1) OJ L 24, 29.1.2004, p. 1.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates [1]

15 May 2014

(2014/C 147/03)

1 euro =

	Currency	Exchange rate		Currency	Exchange rate
USD	US dollar	1,3659	CAD	Canadian dollar	1,4845
JPY	Japanese yen	139,17	HKD	Hong Kong dollar	10,5882
DKK	Danish krone	7,4644	NZD	New Zealand dollar	1,5786
GBP	Pound sterling	0,81520	SGD	Singapore dollar	1,7108
SEK	Swedish krona	8,9740	KRW	South Korean won	1 401,78
CHF	Swiss franc	1,2227	ZAR	South African rand	14,1337
ISK	Iceland króna		CNY	Chinese yuan renminbi	8,5090
NOK	Norwegian krone	8,1050	HRK	Croatian kuna	7,5910
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	15 599,43
CZK	Czech koruna	27,440	MYR	Malaysian ringgit	4,4064
HUF	Hungarian forint	303,62	PHP	Philippine peso	59,797
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	47,4450
PLN	Polish zloty	4,1792	THB	Thai baht	44,333
RON	Romanian leu	4,4328	BRL	Brazilian real	3,0197
TRY	Turkish lira	2,8466	MXN	Mexican peso	17,6440
AUD	Australian dollar	1,4589	INR	Indian rupee	80,9842

[1] *Source*: reference exchange rate published by the ECB.

Opinion of the Advisory Committee on restrictive agreements and dominant position Meeting on 17 February 2014 concerning a preliminary draft decision relating Case C.39398 Visa MIF

Rapporteur: Malta

(2014/C 147/04)

(1) The Advisory Committee shares the Commission's concerns expressed in its draft Decision as communicated to the Advisory Committee on 5 February 2014 under Article 101 of the Treaty on the Functioning of the European Union ('TFEU') and Article 53 of the EEA Agreement.

(2) The Advisory Committee agrees with the Commission that the proceedings concerning Visa Europe can be concluded by means of a decision pursuant to Article 9(1) of Regulation (EC) No 1/2003.

(3) The Advisory Committee agrees with the Commission that the commitments offered by Visa Europe are suitable, necessary and proportionate and should be made legally binding on Visa Europe.

(4) The Advisory Committee agrees with the Commission that, in light of the commitments offered by Visa Europe, there are no longer grounds for action by the Commission against Visa Europe, without prejudice to Article 9(2) of Regulation (EC) No 1/2003.

(5) The Advisory Committee asks the Commission to take into account any other points raised during the discussion.

(6) The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union*.

Final Report of the Hearing Officer [1]

Visa MIF (AT.39398)

(2014/C 147/05)

Introduction

(1) The draft decision under Article 9(1) of Council Regulation (EC) No 1/2003 [2] is addressed to Visa Europe Limited ('Visa Europe') and relates to part of the proceedings in Case AT.39398 – Visa MIF.

(2) On 6 March 2008, following an *ex officio* investigation opened on 28 November 2006, the Commission initiated proceedings in relation to the setting of 'multilaterally agreed interchange fees' ('MIFs') applicable by default to cross-border and, in certain instances, domestic point-of-sale transactions carried out within the European Economic Area ('EEA') using VISA-branded payment cards.

(3) Following a first Statement of Objections in 2009, the Commission adopted on 8 December 2010 a first decision pursuant to Article 9(1) of Regulation (EC) No 1/2003 that made binding on Visa Europe certain commitments with regard to intra-regional and certain domestic MIFs applicable to consumer immediate debit card transactions [3]. The Commission continued its investigations concerning consumer credit card MIFs.

(4) On 31 July 2012, the Commission notified to Visa Europe a Supplementary Statement of Objections (the 'SSO') where it expressed, in substance, the preliminary view that the setting by the Visa scheme of MIFs and certain related rules applicable to transactions carried out using VISA-branded consumer credit cards where the merchant is located within the EEA could not be exempted from the prohibition laid down in Articles 101(1) TFEU and 53(1) EEA.

Access to file

(5) In August 2012, Visa Europe was granted access to the file via an access-to-file DVD. It requested further access to: (1) the results of a survey of acquiring banks carried out by the Commission in 2010 (the 'Acquirer Survey') and (2) documents concerning a study contracted out by the Commission in 2008 on 'Costs and benefits to merchants of accepting different payment methods' (the 'Cost Study').

Data room access to the Acquirer Survey

(6) In response to Visa Europe's request, DG Competition proposed organising separate data rooms whereby Visa Europe's external legal advisors would only have access to anonymised qualitative information submitted by acquiring banks in the context of the Acquirer Survey and its external economic advisors would only have access to quantitative information. Visa Europe's external legal advisors accordingly obtained access in January 2013 to part of the acquiring banks' information concerning 'cross border acquiring'.

(7) However, as regards the remainder of the acquiring banks' information, Visa Europe disagreed with DG Competition on certain rules governing the terms of the data room access and referred the matter to me under Article 7 of Decision 2011/695/EU. In particular, Visa Europe asked me: (a) to allow disclosure to its external advisors of the country of each bank participating in the Acquirer Survey; (b) to modify the rule whereby external legal and economic advisors only had access to qualitative and quantitative data respectively.

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(1) Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29) ('Decision 2011/695/EU').

(2) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

(3) See my Final report of 26 November 2010 (OJ C 79, 12.3.2011, p. 6).

(8) I rejected request (a) as there was a serious risk that the identity of banks participating in the Acquirer Survey might be revealed if their countries of origin were disclosed. Moreover, Visa Europe had not shown that information on the countries of origin of those banks was indispensable for the exercise of its rights of defence. As regards (b), I concluded that Visa Europe's external legal and economic advisors should be given access to all information in the data rooms, as the proposed access limitations did not appear justified in the circumstances of the case in order to safeguard confidential information and, on the other hand, it was important from the perspective of Visa Europe's rights of defence that economic and legal advisors could consult each other on the documents accessed.

Access to the Cost Study documents

(9) In refusing access to the Cost Study documents, DG Competition considered that those documents did not form part of the Commission's file, that they were not used or relied on in the SSO and that they did not contain any exculpatory elements. However, since the Cost Study tender specifications referred to the proceedings against Visa Europe and having regard to the definition in paragraph 8 of the Access to File Notice [1], I concluded that the Cost Study documents form part of the Commission's file. However, I noted that not all those documents had to be made accessible to Visa Europe. Correspondence between the Commission and its contractors on the evaluation of the contractors' work and on financial aspects of the study, correspondence reflecting internal deliberations between the Commission and its experts, and other documents of a preliminary nature constitute internal (non-accessible [2]) documents.

Deadline to respond to the SSO

(10) Visa Europe replied to parts of the SSO in February 2013, DG Competition having extended the initial period of 12 weeks in which a reply had to be submitted.

Commitments

(11) On 10 May 2013, Visa Europe proposed commitments in order to meet the Commission's concerns. On 14 June 2013, the Commission published a notice in accordance with Article 27(4) of Regulation (EC) No 1/2003 [3] and received seventeen responses from interested third persons. Visa Europe submitted an amended commitment proposal in November 2013.

(12) The draft Commission decision makes the commitments offered binding upon Visa Europe for four years. That decision concludes, in essence, that there are no longer grounds for action as regards the MIFs set by Visa Europe relating to transactions carried out within the EEA using VISA-branded consumer payment cards and Visa Europe's rules on cross-border acquiring.

(13) I have not received any request or complaint from any party to the proceedings with respect to the proposed commitments [4].

(14) In the light of all the above, I consider that the effective exercise of the procedural rights of all parties has been respected.

Brussels, 19 February 2014.

Wouter WILS

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[1] Commission Notice on the rules for access to the Commission file in cases pursuant to Articles 81 and 82 of the EC Treaty, Articles 53, 54 and 57 of the EEA Agreement and Council Regulation (EC) No 139/2004 (OJ C 325, 22.12.2005, p. 7).

[2] Notice on Access to File, paragraph 12.

[3] Communication of the Commission published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case AT.39398 — VISA MIF (OJ C 168, 14.6.2013, p. 22).

[4] According to Article 15(1) of Decision 2011/695/EU, parties to the proceedings offering commitments pursuant to Article 9 of Regulation (EC) No 1/2003 may call upon the hearing officer at any stage of the procedure in order to ensure the effective exercise of their procedural rights.

Summary of Commission Decision

of 26 February 2014

relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement

(Case AT.39398 Visa MIF)

(notified under document C(2014) 1199 final)

(Only the English text is authentic)

(2014/C 147/06)

On 26 February 2014, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 [1]*, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.*

(1) The case concerns the setting of multilaterally agreed interchange fees ('MIFs') by Visa Europe Limited ('Visa Europe') that apply to Intra-regional, certain domestic [2] and intra Visa Europe non-EEA [3] point of sale ('POS') transactions with Visa consumer credit cards and with Visa consumer debit cards and the rules relating to cross-border acquiring.

1. PRELIMINARY COMPETITION CONCERNS

(2) In its Statement of Objections of 3 April 2009 (the 'Statement of Objections'), the Commission came to the provisional conclusion that Visa Europe had infringed Article 101 of the Treaty and Article 53 of the EEA Agreement when setting MIFs.

(3) On 8 December 2010, the Commission adopted a decision pursuant to Article 9 of Regulation (EC) No 1/2003 (the 'debit commitment decision'). The decision made legally binding on Visa Europe for four years the commitments to (i) cap at 0,20 % the weighted average MIF applicable to consumer debit transactions covered by the proceedings and (ii) maintain and/or introduce a number of changes to their network rules.

(4) In its Supplementary Statement of Objections on 31 July 2012 (the 'Supplementary Statement of Objections') the Commission reformulated and further refined its objections with regard to consumer credit card multilateral interchange fees ('MIFs'). It also extended the scope of proceedings to the direct application of Inter-Regional (or international) MIFs where merchants are located in the EEA and it also took the preliminary view that Visa Europe's rules on cross-border acquiring had infringed Article 101 of the Treaty and Article 53 of the EEA Agreement.

(5) Interchange fees are in effect paid by a merchant's bank ('acquirer') to a cardholder's bank ('issuer') for each transaction made at a merchant outlet with a payment card. When a cardholder uses a payment card to buy goods or services from a merchant, the merchant in effect pays a merchant service charge to its acquirer. The acquirer keeps part of this charge (the acquirer's margin), part is passed on to the issuer (the MIF) and a small part is passed to the scheme operator (in this case Visa). In practice, a large part of the merchant service charge is determined by the MIF.

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[1] OJ L 1, 4.1.2003, p. 1.

[2] Currently in Belgium, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta, Netherlands, Latvia and Sweden.

[3] These are transactions carried out with merchants located within the EEA with Visa consumer cards issued in non-EEA countries in the Visa Europe territory. The Visa Europe territory consists of the EEA, Andorra, Faroe Islands, Greenland, Israel, Monaco, San Marino, Svalbard and Jan Mayen Islands, Switzerland, Turkey and Vatican City.

(6) The Preliminary Assessment expressed a concern that the MIFs have as their object and they also have as their effect an appreciable restriction of competition in the acquiring markets to the detriment of merchants and, indirectly, their customers. The MIFs appear to inflate the base on which acquirers set the MSCs by creating an important cost element common to all acquirers. According to the Commission's Preliminary Assessment, Visa Europe's MIFs are not objectively necessary. The restrictive effect in the acquiring markets is further reinforced by the effect of the MIFs on the network and issuing markets as well as by other network rules and practices, namely the Honour All Cards Rule (the 'HACR'), the No Discrimination Rule (the 'NDR'), blending [1] and the segmentation of acquiring markets due to rules restricting cross-border acquiring [2]. Furthermore, according to the Statement of Objections and the Supplementary Statement of Objections, the MIFs do not meet the requirements for an exception under Article 101(3) of the Treaty of producing efficiencies with a fair share of the resulting benefit being passed on to consumers.

(7) In Visa Europe's system, cross-border acquirers are subject to a rule which mandates the application of the MIFs that are applicable in the country of transaction. According to this rule, cross-border acquirers must apply as a default either the Country-specific MIFs or Intra-Regional MIFs or the registered domestic MIFs. Visa issuing and acquiring members in the country of transaction and cross-border acquirers may deviate from domestic MIFs or Country-specific MIFs by concluding bilateral agreements involving lower or no interchange fees. However, cross-border acquirers are liable to be at a disadvantage if they want to enter into bilateral agreements of this type, because they are not likely to have strong links to domestic issuers. In countries where there are significant bilateral agreements involving domestic acquirers, cross-border acquirers would typically have to apply the higher Country-specific or Intra-Regional MIFs or registered domestic MIFs. This rule is also considered to be a territorial and price restriction by object and effect, which hinders acquirers in countries where the MIF is lower from offering their services in other countries at prices reflecting their low MIFs. In light of the objective of the achievement of an internal market in payments, this is a very serious restriction which appears to be unjustified. Such an artificial partitioning of acquiring markets harms consumers, as merchants are obliged to pay higher prices for acquiring services. Therefore the Commission took the preliminary view in the Supplementary Statement of Objections that the objective and the content of this rule is to maintain the segmentation of national markets by limiting the entry and price competition from cross-border acquirers.

2. **COMMITMENT DECISION**

(8) On 10 May 2013 Visa Europe offered commitments pursuant to Article 9 of Regulation (EC) No 1/2003 to meet the Commission's competition concerns.

(9) On 14 June 2013 a notice was published in the *Official Journal of the European Union* pursuant to Article 27(4) of Regulation (EC) No 1/2003, summarising the case and the proposed commitments and inviting interested third parties to give their observations on the commitments within one month following publication. On 30 August 2013 the Commission informed Visa Europe of the observations received from interested third parties following the publication of the notice. On 5 November 2013, Visa Europe submitted revised commitments.

[1] The HACR is a Visa system rule which obliges merchants who have contracted to accept payments with a particular brand of card (for example, VISA, VISA Electron or V PAY) to accept all cards properly presented of such brand without discrimination and regardless of the identity of the issuing bank or the type of card within that brand. The NDR is a Visa system rule which prevents merchants from adding surcharges to transactions with VISA, VISA Electron or VPAY payment cards, unless local law expressly requires that a merchant be permitted to impose a surcharge. Blending is a practice whereby acquirers charge merchants the same MSC for the acceptance of different payment cards of the same payment scheme (for example, VISA debit and credit) or for the acceptance of payment cards belonging to different payment card schemes (for example, VISA and MasterCard Credit cards). In its Preliminary Assessment that those rules and practices reduce merchants' capacity to constrain the collective exercise of market power of Visa Europe's members through the MIF, thereby reinforcing the anti-competitive effects of the MIF.

[2] Cross-border acquiring is the activity undertaken by acquirers aiming at recruiting merchants for acceptance residing in a different EEA country than the one where the acquirer is established.

(10) By decision of 26 February 2014, pursuant to Article 9 of Regulation (EC) No 1/2003, the Commission made the revised commitments binding on Visa Europe for four years. The main content of the commitments is summarised below:

(a) Visa Europe commits to cap its yearly weighted average Intra-EEA credit MIFs applicable to transactions with its consumer credit cards at a level of 0,3 % two months following the notification of the commitment decision to Visa Europe;

(b) the cap will also apply individually two years after the notification of the commitment decision in each of those EEA countries for which Visa Europe directly sets specific domestic consumer credit MIF rates and in those EEA countries where the Intra-EEA Credit MIFs apply to domestic transactions in the absence of other MIFs;

(c) Visa Europe also proposes to ensure that, as from 1 January 2015,

— the 0,3 % credit MIF cap also applies to all MIFs set by Visa Europe regarding transactions carried out with merchants located within the EEA with Visa consumer credit cards issued in non-EEA countries belonging to the Visa Europe territory (1) ('intra Visa Europe non-EEA credit MIFs'), and

— the 0,2 % debit MIF cap also applies to all MIFs set by Visa Europe regarding transactions carried out with merchants located within the EEA with Visa consumer debit cards issued in non-EEA countries belonging to the Visa Europe territory ('intra Visa Europe non-EEA debit MIFs');

(d) Visa Europe commits to amend its rules on cross-border acquiring from 1 January 2015 to allow cross-border acquirers to offer either the domestic debit MIF or the domestic credit MIF applicable in the location of the merchant or a MIF rate of 0,2 % for consumer debit transactions and 0,3 % for consumer credit transactions, subject to certain conditions;

(e) Visa Europe commits to continue to implement further transparency measures. In particular, Visa Europe commits:

— to introduce a rule which requires acquirers to offer merchants merchant service charge pricing on a 'MIF plus plus' basis for an administrative fee (in other words, acquirers must, if requested, clearly break down in their contracts and invoices the MSC into three components, namely the MIF, all the other applicable payment system fees and the acquirer's fee). Visa Europe will require acquirers to implement this rule within 12 months following the notification of the commitment decision to Visa Europe with regard to all new agreements and within 18 months for existing contracts,

— to introduce a simplified MIF structure for MIFs set by Visa Europe to provide for a reduction of at least 25 % in the number of fee categories to aid transparency and comparison between rates.

(11) Visa Europe shall appoint a Monitoring Trustee to monitor Visa Europe's compliance with the commitments. Before appointment, the Commission shall have the power to approve or reject the proposed Trustee.

(12) The commitments will be valid for a period of four years from the date of notification of the commitment decision to Visa Europe.

(13) The weighted average MIF caps provided for in the commitments were assessed under the MIT. The decision finds that the commitments are appropriate and necessary to address the concerns identified in the Statement of Objections and the Supplementary Statement of Objections without being disproportionate.

(1) The Visa Europe territory includes the EEA, Andorra, Faroe Islands, Greenland, Israel, Monaco, San Marino, Svalbard and Jan Mayen Islands, Switzerland, Turkey and Vatican City.

(14) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on the adoption of the decision on 17 February 2014. On 19 February 2014 the Hearing Officer issued his final report.

(15) The decision brought the proceedings to an end as regards Visa Europe's Intra-EEA Credit multilaterally agreed interchange fees, Domestic Credit MIFs set by Visa Europe, Intra Visa Europe Non-EEA Credit and Debit MIFs, International MIFs and Visa Europe's rule on the applicable MIF in the case of cross-border acquiring.

(16) The decision, however, does not cover MIFs set by Visa Inc. and Visa International Service Association which the Commission will continue to investigate.

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

STATE AID — REPUBLIC OF LATVIA

State aid No SA.36612 (2014/C) (ex 2013/NN) — Un-notified aid granted by Latvia to Citadele and Parex

Invitation to submit comments pursuant to Article 108(2) of the Treaty on the Functioning of the European Union

(Text with EEA relevance)

(2014/C 147/07)

By means of the letter dated 16 April 2014 reproduced in the authentic language on the pages following this summary, the Commission notified the Republic of Latvia of its decision to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union concerning the abovementioned aid.

Interested parties may submit their comments on the scheme in respect of which the Commission is initiating the procedure within 10 working days 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
BELGIQUE/BELGIË

Fax: +32 22961242

These comments will be communicated to Republic of Latvia. 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

Procedure

1. On 15 September 2010 (1), the Commission approved the restructuring plan of AS Parex banka. The restructuring plan envisaged a split of AS Parex banka into AS Citadele banka and AS Reverta (2). On 10 August 2012 the Commission approved amendments to three commitments included in the decision approving the restructuring plan (3).

2. Since then, in the context of monitoring the approved restructuring plan and related commitments, the Commission has identified aid granted by Latvia over and beyond the aid measures already approved by the Commission.

(1) Commission Decision C 26/2009, OJ L 163, 23.6.2011, p. 28.
(2) The bad bank initially kept the name of Parex banka after the split that took place on 1.8.2010, but was registered since May 2012 under the corporate name 'AS Reverta'.
(3) Commission Decision SA.34747, OJ C 273, 21.9.2013, p. 1.

Description of the measures

3. Based on the documents received by the Commission, it results that Latvia has put into effect the following measures without prior notification to the Commission:

(i) on 22 May 2009, Latvia granted to AS Parex banka a subordinated loan, qualifying as Tier 2 capital, with a maturity of seven years, which exceeds the maximum five-year maturity approved by the Commission under State aid rules;

(ii) on 27 June 2013, Latvia granted to AS Citadele banka an additional 18-month extension of the maturity on the outstanding amount of the same subordinated loan;

(iii) since 2011 Latvia has provided AS Reverta with liquidity support in excess of the maximum limit approved by the Commission under its decision of 15 September 2010.

4. Moreover, it results that Latvia has failed to comply with its commitment to divest the Wealth Management Business of AS Citadele banka by the provided deadlines.

Assessment of the measures

5. AS Parex banka and subsequently AS Citadele banka and AS Reverta have received measures from Latvia in addition to the aid measures approved by the Commission under State aid rules.

6. Based on the facts that:

(i) both the initial seven-year maturity and the extended maturity of the subordinated debt and the increased liquidity support clearly represent additional advantages compared to the approved aid measures, and therefore are additional aid (as all of the other criteria under Article 107(1) of the Treaty are still in place); and

(ii) the absence of any notification to the Commission for those additional aid measures, the Commission therefore considers that those three measures represent unlawful aid.

7. The Commission notes that, based on the information currently available, Latvia has not brought forward arguments to demonstrate the compatibility of the aid stemming from the original seven-year maturity of the subordinated loans and the additional 18-month prolongation of the subordinated debt maturity.

8. The Commission also notes that Latvia has not brought forward arguments to demonstrate the compatibility of the aid stemming from the additional liquidity support granted to AS Reverta.

9. Latvia has confirmed that the Wealth Management Business has not been divested within the agreed deadlines. This constitutes a breach of the terms of the Parex Final Decision and hence a misuse of the aid granted.

10. The Commission concludes, in regard to the unlawful aid described above, that doubts are raised as to the compatibility with the internal market based on the information available at this time. The Commission therefore has decided to open a formal investigation procedure pursuant to Articles 13(1) and 4(4) of Regulation (EC) No 659/1999.

11. Moreover, the Commission concludes that the breach of commitment to divest the Wealth Management Business constitutes misuse of aid. The Commission therefore has decided to open a formal investigation procedure also for misuse of aid pursuant to Article 16 of Regulation (EC) No 659/1999.

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 Latvia that, having examined the information supplied by your authorities on the aid 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 ("the Treaty").

1. PROCEDURE

(1) On 10 November 2008 Latvia notified to the Commission a package of State aid measures in favour of AS Parex banka ("Parex banka"), designed to support the stability of the financial system. The Commission approved those measures on 24 November 2008 [1] ("first rescue Decision") based on Latvia's commitment to submit a restructuring plan for Parex banka within six months.

(2) Following requests from Latvia, the Commission approved two sets of changes to the aid measures concerning Parex banka, the first on 11 February 2009 [2] ("second rescue Decision") and the second on 11 May 2009 [3] ("third rescue Decision").

(3) On 11 May 2009 Latvia notified a restructuring plan for Parex banka. By decision of 29 June 2009 [4] the Commission came to the preliminary conclusion that the notified restructuring measures constituted State aid to Parex banka and expressed its doubts that such aid could be found compatible. As a result the Commission decided to initiate the procedure laid down in Article 108(2) of the Treaty and required Latvia to provide information needed for the assessment of the compatibility of the aid.

(4) Between 11 May 2009 and 15 September 2010, several information exchanges and discussions occurred between Latvia and the Commission concerning the restructuring plan for Parex banka. Latvia provided information and clarifications on several occasions throughout the investigation procedure, and the restructuring plan of Parex banka was also updated six times.

(5) On 1 August 2010, some assets of Parex banka were transferred to a newly established so-called "good bank" named AS Citadele banka ("Citadele"), in line with the restructuring plan. The restructuring plan envisaged a split of Parex banka into Citadele, which would take over all core assets and some non-core assets [5], and a so-called "bad bank" ("Reverta" [6]) which kept the remaining non-core and non-performing assets.

(6) By decision of 15 September 2010 [7] ("the Parex Final Decision"), the Commission approved the restructuring plan of Parex banka, based on a commitment paper submitted by the Latvian authorities on 3 September 2010.

(7) On 10 August 2012, at the request of the Latvian authorities, the Commission approved amendments to three commitments included in the Parex Final Decision ("the Amendment Decision") [8]. Those amendments: 1) extended the disposal deadline for the CIS loans [9] until 31 December 2014; 2) increased the limit of minimum capital adequacy requirements allowed for Citadele at the level of the bank and the group before the asset remuneration described in the Parex Final Decision would be triggered; and 3) allowed carry-over of previous years' unused caps on lending, whilst respecting market share caps.

(8) On 1 October 2013 Latvia notified a requested for a further amendment of the Parex Final Decision, asking for the postponement of the divestment deadline for one of the divisions of Citadele, the Wealth Management Business [10]. While analysing Latvia's submissions in support of that amendment request, the Commission identified aid that had been granted by Latvia over and beyond the aid measures already approved by the Commission.

(9) Between […] [*] and 4 March 2014, several information exchanges have taken place between Latvia and the Commission with regard to the additional aid measures. Latvia submitted information and documents on 30 October 2013, 31 January 2014 and 4 March 2014 (including a revised restructuring plan of Parex banka).

(1) Commission Decision NN 68/2008, OJ C 147, 27.6.2009, p. 1.
(2) Commission Decision NN 3/2009, OJ C 147, 27.6.2009, p. 2.
(3) Commission Decision N 189/2009, OJ C 176, 29.7.2009, p. 3.
(4) Commission Decision C 26/2009 (ex N 189/2009), OJ C 239, 6.10.2009, p. 11.
(5) In particular, performing loans to borrowers located in the Commonwealth of Independent States, the Lithuanian subsidiary, branches in Sweden and Germany and the wealth management business, with the latter including the Swiss subsidiary.
(6) The bad bank initially kept the name of Parex banka after the split that took place on 1 August 2010, but has been registered since May 2012 under the corporate name "AS Reverta".
(7) Commission Decision C 26/2009, OJ L 163, 23.6.2011, p. 28.
(8) Commission Decision SA.34747, OJ C 273, 21.9.2013, p. 1.
(9) Meaning loans to borrowers located in the Commonwealth of Independent States.
(10) The Wealth Management Business consists of the private capital management sector of Citadele, asset management subsidiaries and AP Anlage & Privatbank AG, Switzerland.
(*) Confidential information.

(10) Since 11 November 2013, the Commission has also received monthly updates regarding Latvia's progress in selling Citadele, a process it began in October 2013.

(11) The Latvian authorities have informed the Commission that for reasons of urgency they exceptionally accept that this Decision is adopted in the English language.

2. DESCRIPTION

2.1. The undertaking concerned

(12) 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 was partially nationalised in November 2008.

(13) In April 2009, the European Bank for Reconstruction and Development ("EBRD") acquired 25 % of the share capital of Parex banka plus one share. Following the split of Parex banka into a good bank and a bad bank in 2010 along with subsequent changes in the shareholding structure, the shareholders of Citadele are now Latvia (75 %) and the EBRD (25 %), while the shareholders of Reverta are Latvia (84,15 %), the EBRD (12,74 %) and others (3,11 %).

(14) A detailed description of Parex banka up to the time of the Parex Final Decision can be found in recitals 11 to 15 of that decision. Parex banka was authorised to receive a series of aid measures (including liquidity support, guarantees and recapitalisation and asset relief measures) which are specified in the Parex Final Decision. Those measures were approved by the Commission in the first, second and third rescue Decisions (the "Rescue Decisions") and the Parex Final Decision.

2.2. The aid measures approved for Citadele and Reverta

(15) The restructuring plan approved by the Commission with the Parex Final Decision provided that the rescue aid previously approved by the Commission was to be extended over the restructuring period and split between Citadele and Reverta. The Parex Final Decision also approved additional restructuring aid for Reverta and Citadele. It also laid down a utilisation mechanism for the aid which had been provisionally approved through the Rescue Decisions after Parex banka was split, in regard to:

a) liquidity support in the form of State deposits for both Citadele and Reverta [1];

b) State guarantees on liabilities of Citadele and Reverta [2];

c) a State recapitalisation for Reverta and Citadele [3]; and

d) an asset relief measure for Citadele [4].

2.3. The commitments given by Latvia in the Parex Final Decision and the Amendment Decision

(16) In order to enable the Commission to find the restructuring aid compatible with the internal market Latvia provided commitments to ensure full implementation of the restructuring plan and limit distortions of competition that result from the restructuring aid ("the commitments").

(17) The main commitments regarding Citadele are described in recitals 73 to 83 of the Parex Final Decision. They include: a commitment to divest the CIS loans; a commitment to divest the Wealth Management Business within fixed deadlines (one which applied to divestment by Citadele itself and another which applied to divestment under the control of a Divestment Trustee); the preservation of viability, marketability and competitiveness; a hold-separate obligation in relation to the Wealth Management Business; a commitment to sell Citadele within a fixed deadline; caps on new lending and deposits in the Baltic countries; caps on the deposits in the German and Swedish branches; no increase in the number of branches; remuneration in respect of the asset relief measure; an acquisition ban; and a ban on making new CIS loans.

(18) The main commitments regarding Reverta are described in recitals 84 to 87 of the Parex Final Decision. They include commitments that there would be no new activities; there would be a wind-down or divestment of activities; and a cap on the total amount of capital that would be provided by Latvia in whatever form.

(19) Recitals 88 to 93 of the Parex Final Decision describe the commitments jointly applying to Reverta and Citadele. They provide for: a dividend and coupon ban; a ban on any reference to State support in advertising; a separation between Citadele and Reverta; and the appointment of Monitoring and Divestiture Trustees.

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(1) Recitals 55-57 of the Parex Final Decision.
(2) Recitals 58-61 of the Parex Final Decision.
(3) Recitals 62-68 of the Parex Final Decision.
(4) Recitals 69-70 of the Parex Final Decision.

(20) As recalled in recital 16, the Commission subsequently amended three of the commitments applicable to Citadele under the Parex Final Decision. That approval was based on new commitments undertaken by Latvia and Citadele to compensate for any distortion of competition.

2.4. **The additional measures implemented by Latvia for Parex banka, Citadele and Reverta**

(21) Based on the report submitted on 29 August 2013 by the Monitoring Trustee [1] and based on documents and information submitted by Latvia since October 2013, it appears that Latvia has put into effect the following measures without prior notification to the Commission:

(i) on 22 May 2009, Latvia granted to Parex banka a subordinated loan of LVL 50,27 million (qualifying as Tier 2 capital) with a maturity of seven years (i.e. until 21 May 2016). The duration of that subordinated loan exceeds the maximum five-year maturity set in first rescue Decision and confirmed in the Parex Final Decision;

(ii) on 27 June 2013, Latvia granted Citadele an additional 18-month extension of the maturity for an amount of LVL 37 million of subordinated debt (out of the total of LVL 45 million held by Latvia at that time) [2]. Table 1 gives an overview of the subordinated debt maturity changes, as of 31 December 2013. Latvia did not notify the extension of the maturity of that subordinated debt to the Commission;

Table 1

Issuer	Principal (LVL million)	Maturity approved by the Parex Final Decision	Maturity date throughout the restructuring period	Extended Maturity (granted in 2013)
LPA [3]	7,87	May 2014 (five years starting from 2009)	8.8.2016	—
LPA	37,34		21.5.2016	20.12.2017
[…]	[…]		[…]	[…]
Total	50,27			

(iii) in addition, since 2011 Latvia has provided Reverta with liquidity support in excess of the maximum limit set and approved by the Commission in the Parex Final Decision, both for the base case and for the worst case scenario (presented in Table 2 [4]). The actual amounts of liquidity support from which Reverta has benefited were communicated by the Latvian authorities through the revised restructuring plan submitted in January 2014 and are reflected in Table 3:

Table 2

Liquidity caps for Reverta as reflected in the Parex Final Decision

LVL million	1.8.10	31.12.10	31.12.11	31.12.12	31.12.13
Base case	458	446	419	349	315
Best case	458	446	419	356	322
Worst case	458	446	419	344	307

(1) The Monitoring Trustee was appointed through a Mandate signed by Reverta, Citadele and the Latvian authorities on 28 February 2011. The Monitoring Trustee has submitted bi-annual monitoring reports covering the preceding semester, starting with the one ending 31 December 2010.

(2) Following the split of Parex banka, Citadele was established on 1 August 2010. The Parex Final Decision approved the transfer to Citadele of all of the subordinated loans previously granted to Parex banka. No Tier 2 capital was provided to Parex banka by Latvia at the time of the split or could have been provided by Latvia after the split.
On 3 September 2009 the EBRD agreed to refinance part of the subordinated loan previously granted by Latvia to Parex banka. As of 31 December 2009 the subordinated loans granted by Latvia to Parex banka amounted to LVL 37 million, while the subordinated loan granted by the EBRD amounted to LVL 13 million.
At the time of the split Latvia took over LVL 8 million out of the LVL 13 million subordinated loan held by the EBRD. As of 1 August 2010, the total amount of subordinated loans held by Latvia was LVL 45 million (with different maturities), while that held by the EBRD was LVL 5 million.

(3) The Latvian Privatisation Agency, owned by Latvia.

(4) That information is contained in Table 6 of the Parex Final Decision.

Table 3

Actual amounts of liquidity from which Reverta has benefited

Outstanding of liquidity support					
	1.8.10	31.12.10	31.12.11	31.12.12	31.12.13
LVL million	446,32	446,32	427,82	384,86	362,52

In light of those developments and findings, the Commission has asked Latvia to provide additional information and explanations.

(22) Latvia has confirmed through the submissions set out in recital 9 that those additional measures have already been put into effect.

2.5. **The breach of the commitment to divest the Wealth Management Business of Citadele**

(23) Latvia has failed to comply with its commitment to divest the Wealth Management Business of Citadele by 30 June 2013 without a Divestiture Trustee, or by 31 December 2013 with a Divestiture Trustee, which was recorded in the Parex Final Decision [1]. Therefore that commitment to divest the Wealth Management Business by those deadlines has been breached.

3. **POSITION OF THE LATVIAN AUTHORITIES**

3.1. **On the un-notified maturity extensions of the subordinated debt**

(24) In its submissions of information regarding the un-notified aid which are mentioned in recital 9, as well as in the revised restructuring plan, the Latvian authorities submit that the Commission had been informed of the possibility of the maturity extension of the subordinated debt on a number of occasions. In consequence, Latvia considers that the longer maturity of the subordinated debt does not entail un-notified State aid.

(25) More specifically, Latvia expresses the view that:

(i) the Commission had been informed of the possibility of the maturity extension of the subordinated debt on a number of occasions, as it was expressly referred to in the restructuring plan and the reports of the Monitoring Trustee;

(ii) according to the final version of the restructuring plan, it was not planned that the subordinated debt would be fully repaid by 2017. In addition, the restructuring plan assumed when determining the eligible capital for calculating capital adequacy that the maturity of the subordinated financing would be extended to avoid suffering from a 20 % amortisation rate starting from the fifth year and until maturity;

(iii) in line with those provisions, the Parex Final Decision provided that the subordinated loans were expected to mature in the period 2015-18, thus envisaging a prospective extension of the subordinated debt [2];

(26) Moreover, Latvia has argued that the payment by Citadele of interest rates in excess of market conditions allays any State aid concerns that could exist.

(27) Finally, Latvia notes that discussions […] are currently being held […].

3.2. **Regarding the un-notified liquidity support granted to Reverta**

(28) Latvia explained that it provided Reverta with liquidity in excess of the support limits in the Parex Final Decision because the deposits from the State were not transformed into capital support by capitalising the principal of State treasury deposits to the extent that had been envisaged in that Decision. That transformation did not occur because after Reverta's banking licence had been revoked the relevant Latvian legislation no longer required statutory capital to be maintained. The Parex Final Decision had mentioned capitalising LVL [40-110] million of principal in the base case, whereas in fact only LVL 12,4 million of principal was capitalised.

(29) Latvia argues that capitalising less principal benefitted the State because:

(iv) Latvia receives interest on liquidity aid but has no income from capital aid;

(v) Latvia remains a senior secured creditor rather than junior equity holder, which ensures higher recoverability of funds in case of insolvency or liquidation, given that the State Treasury will have priority towards proceeds collectable within the insolvency process;

[1] See recital 73 of the Parex Final Decision.
[2] In that respect, Latvia points to recital 148 of the Parex Final Decision.

(vi) the capital invested as Tier 1 will not be recovered by the State [1]; and

(vii) there is more burden-sharing by legacy minority stakeholders as a result of interest payments by Reverta to the State.

3.3. **Regarding the breach of the commitment for Wealth Management Business divestment**

(30) Latvia states that the return of Citadele as a stand-alone entity to the private sector would have been put at risk if Citadele had divested the Wealth Management Business by 30 June 2013 as foreseen in the restructuring plan of 2010 or, in any event before Latvia had divested its stake in Citadele. Latvia claims that Citadele without the Wealth Management Business has no viable business model.

(31) The Latvia has therefore requested the Commission to amend the Parex Final Decision in order to allow Citadele to retain the Wealth Management Business until after the entire bank passes to the private sector.

(32) Such a request was first made in August 2012 in discussions between Latvia and the Commission before the Amendment Decision was taken. During those discussions the Latvian authorities ultimately decided not to request an extended deadline for divesting the Wealth Management Business.

4. **ASSESSMENT**

(33) Pursuant to Article 13(1) in conjunction with Article 4(4) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union [2] the Commission may open a formal investigation procedure if it finds that doubts are raised as to the compatibility with the internal market of an unlawful aid measure [3].

4.1. **Existence of unlawful aid**

(34) Article 107(1) of the Treaty provides that, save as otherwise provided in the Treaty, 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 is in so far as it affects trade between Member States, be incompatible with the internal market.

(35) As described in recital 21, Parex banka and subsequently Citadele and Reverta have obtained measures from Latvia in addition to the aid measures examined in the Rescue Decisions and the Parex Final Decision.

(36) ***With regard to the subordinated debt,*** the fact that such a measure contains State aid was established in the first rescue Decision, when the Commission approved the issuance of subordinated debt with five years maturity as a compatible aid measure. The Commission decided at that time that a market economy investor would not have granted subordinated debt with a five-year maturity [4].

(37) The measure which was in fact granted by Latvia in favour of Parex banka was identical with the measure approved by the Commission except for the fact that it had a longer maturity. As such, the measure which was in fact granted would also be State aid unless the longer maturity eliminated any advantage to Parex banka. However, subordinated debt with a seven-year maturity would give the borrower a greater advantage since the risk perceived by an investor for any given investment increases as the maturity of the investment is extended. When the subordinated debt with a seven-year maturity was granted, it would have been even less likely for a market economy investor to grant the subordinated debt under those extended terms than it would for it to have done so for five years. For that reason, the longer maturity of the subordinated debt represented an additional advantage for Parex banka compared to the form of the subordinated debt that was approved in the Rescue Decisions and the Parex Final Decision.

(38) The maturity of the subordinated debt was later further extended by an additional 18 months. As the risk perceived by an investor for any given investment increases as the maturity of the investment is extended, a market economy investor would not have granted the subordinated debt under those extended terms in the absence of any countervailing payment fully offsetting the investor's increased risk. For that reason, the longer maturity of the subordinated debt represents an additional advantage for Citadele compared to the form of the subordinated debt that was approved in the Rescue Decisions and the Parex Final Decision.

(39) Latvia justifies granting subordinated loans with a longer maturity than approved by claiming that the Commission had been informed of a possible maturity extension through the restructuring plan and submissions of the Monitoring Trustee.

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(1) Recital 49 of the Parex Final Decision.
(2) OJ L 83, 27.3.1999, p. 1.
(3) Under Article 1 of Regulation (EC) No 659/1999, unlawful aid means new aid put into effect in contravention of Article 108(3) of the Treaty — i.e. without notification to the Commission of aid measures before they are put into effect.
(4) Recital 40 of the first rescue Decision.

(40) The Commission does not accept that argument. The possible need to extend the maturity of the subordinated loan was only incidentally mentioned, for information, by the Monitoring Trustee in previous monitoring reports (e.g. that of 30 June 2012) as an option under consideration by Latvian authorities. A mention of the possibility that additional aid may be granted by a Member State does not constitute or substitute for a formal notification of aid measures, within the meaning of Article 108(3) of the Treaty.

(41) Latvia also contends that the recital 148 of the Parex Final Decision explicitly provided that the subordinated loans were expected to mature in the period 2015-18, thus envisaging a prospective extension of the subordinated debt.

(42) The Commission does not share that interpretation. Recital 148 of the Parex Final Decision refers to the subordinated loans by legacy shareholders in Parex, and not to the subordinated loans granted by Latvia.

(43) ***With regard to the liquidity support granted to Reverta***, it was initially approved as part of the compatible State aid measures approved in the first rescue Decision, in the form of State deposits. At that time, the Commission noted that Parex banka lacked liquid collateral and that Latvia had deposited the funds, taking into account the bank's liquidity needs, when no market investor was willing to provide liquidity in view of the fragile situation of Parex banka [1].

Following the Parex Final Decision (and the split in a good and a bad bank) the liquidity aid was subsequently transferred to Citadele and Reverta. The former has already repaid in full its share of the liquidity support, whereas the latter had to limit the amounts of liquidity support it received, as set out in recital 21(iii). However, the amount of liquidity support actually granted to Reverta exceeds even the worst case scenario level approved within the Parex Final Decision. That additional liquidity support provides a supplementary advantage for Reverta compared to the aid approved by the Rescue Decisions and Parex Final Decision. None of the other features of the liquidity support apart from its quantity have been altered and so the Commission concludes that the measure constitutes State aid.

(44) None of those three additional measures (the seven-year subordinated loan; the 18-month extension; and the additional liquidity support) had been notified to the Commission. Latvia has therefore not complied with the standstill obligation under Article 108 of the Treaty.

(45) Based on the facts that:

— both the longer initial maturity and the extended maturity of the subordinated debt and the increased liquidity support clearly represent additional advantages compared to the approved aid measures, and therefore are additional aid (as all of the other criteria under Article 107(1) of the Treaty are still in place), and

— the absence of any notification to the Commission for those additional aid measures,

the Commission therefore considers that the measures described in recital 21 represent unlawful aid.

4.2. **Compatibility of the aid**

4.2.1. *The subordinated loans with extended maturity*

(46) In line with the 2008 Banking Communication [2] which was in force when the subordinated loan was initially granted and when it was subsequently extended, in order for aid to be compatible, it had to comply with several conditions:

— appropriateness (to be well targeted to its objective, e.g. to remedy a serious disturbance in the economy, and take the most appropriate form for that purpose to remedy the disturbance),

— necessity (to be necessary to achieve the objective, and remain at the minimum necessary to do that),

— proportionality (the positive effects of the aid must be properly balanced against the distortions of competition, in order for the distortions to be limited to the minimum necessary to reach the measures' objectives).

(47) The objective of granting a subordinated loan qualifying as Tier 2 capital to Parex banka was to enable it to continue to satisfy the capital adequacy ratio and to ensure that it is sufficiently capitalised so as to better withstand potential losses, in order to avoid a serious disturbance in the Latvian economy.

(1) Recital 41 of the first rescue Decision.
(2) Communication 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.

(48) In the first rescue Decision, the Commission noted that the subordinated debt for Parex banka was limited to the minimum necessary in scope and time. Among other elements, the limitation to the minimum necessary was based on the commitment of the Latvian authorities to grant subordinated debt with a maximum maturity of five years. In that regard, the Commission noted in that decision that the minimum maturity for the subordinated debt to qualify as Tier 2 capital under Latvian legislation was five years. The aid measure was therefore qualified as compatible.

(49) The second and third rescue Decisions, the Parex Final Decision and the Amendment Decision did not alter the assessment of the first rescue Decision in that respect, concerning the limitation to the minimum necessary.

(50) The Commission notes that Latvia has not brought forward arguments to demonstrate the compatibility of the aid stemming from the extended maturity of the subordinated loans.

(51) Therefore, based on the information available to Commission at this time, the un-notified aid measure concerning the subordinated debt issued with a maturity of seven years instead of five years as initially approved cannot be qualified as compatible, considering that: a) the existing assessment is that a five-year maturity of the subordinated debt was what ensured limitation to the minimum necessary and b) no new arguments have been presented for justification of compatibility.

(52) Equally, based on the information available to Commission at this time, the un-notified aid measure concerning the additional prolongation of the subordinated debt maturity by 18 months cannot be qualified as compatible, considering that: a) the existing assessment is that a five-year maturity of the subordinated debt was what ensures limitation to the minimum necessary and b) no new arguments have been presented for justification of compatibility.

(53) The Commission invites Latvia and any interested parties to present it with additional elements relevant to whether the seven-year duration of the subordinated loan and its subsequent extension by 18 months constitutes aid which was limited to the minimum necessary.

4.2.2. *The liquidity support measure*

(54) The assessment of the restructuring plan in the Parex Final Decision was based on assumptions presented at that time regarding the expected inflows of liquidity into Reverta which would allow it to start repaying the liquidity support granted in the form of State deposits, up to a certain level (1).

(55) The amounts expected to remain unpaid, as described in the Parex Final Decision, ranged from LVL […] million (the base case scenario) to LVL […] million (the worst case scenario). As explained in recital 21, the actual amounts from which Reverta has benefited have constantly exceeded those laid out in the Parex Final Decision.

(56) The Commission notes that Latvia has not brought forward arguments to demonstrate the compatibility of the aid stemming from the additional liquidity support.

(57) In view of this, and considering also the fact that the revised restructuring plan presented by Latvia includes numerous other adjustments compared to the plan approved through the Parex Final Decision, the Commission is not in the position at this time to qualify the additional liquidity support as compatible with the internal market. A more in-depth assessment of the impact the revised levels of liquidity support will have to be carried out, taking into account the revised restructuring plan in its entirety.

4.3. **The breach of the commitment to divest the Wealth Management Business**

(58) Pursuant to Article 16 of Regulation (EC) No 659/1999 the Commission may open a formal investigation procedure if aid is misused, i.e. if the beneficiary used aid in contravention of a decision taken pursuant to Article 7(3) of that Regulation.

(59) In the Parex Final Decision (2) Latvia committed that Citadele would divest the Wealth Management Business by certain deadlines.

(60) Latvia confirmed that the Wealth Management Business has not been divested within the agreed deadlines. This constitutes a breach of the terms of the Parex Final Decision and hence a misuse of the aid granted. The Commission invites Latvia and interested parties to comment on that conclusion and to present any elements which would allow the Commission to consider whether aid obtained by Citadele could be considered compatible with the internal market if the Wealth Management Business were not to be divested separately from Citadele.

(1) Recital 55 of the Parex Final Decision.
(2) See recital 73 of the Parex Final Decision.

5. CONCLUSION

The Commission concludes, in regard to the unlawful aid described in recital 21, that doubts are raised as to the compatibility with the internal market based on the information available at this time. The Commission therefore has decided to open a formal investigation procedure pursuant to Articles 13(1) and 4(4) of Regulation (EC) No 659/1999.

Moreover, the Commission concludes that the breach of commitment described in recital 23 constitutes misuse of aid. The Commission therefore has decided to open a formal investigation procedure also for misuse of aid pursuant to Article 16 of Regulation (EC) No 659/1999.

In the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union, requests Latvia to submit its comments and to provide all such information as may help to assess the measures (in particular the compatibility of the un-notified aid), within ten working days of the date of receipt of this letter. It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.

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

The Commission warns Latvia 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 ten working days of the date of such publication.’

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