

Diario Oficial

de la Unión Europea

C 277



Edición
en lengua española

Comunicaciones e informaciones

53° año
14 de octubre de 2010

Número de información Sumario Página

II *Comunicaciones*

COMUNICACIONES PROCEDENTES DE LAS INSTITUCIONES, ÓRGANOS Y ORGANISMOS DE LA UNIÓN EUROPEA

Comisión Europea

2010/C 277/01 No oposición a una concentración notificada (Asunto COMP/M.5862 — Mahle/Behr/Behr Industry) ⁽¹⁾ 1

IV *Información*

INFORMACIÓN PROCEDENTE DE LAS INSTITUCIONES, ÓRGANOS Y ORGANISMOS DE LA UNIÓN EUROPEA

Comisión Europea

2010/C 277/02 Tipo de cambio del euro 2

ES

Precio:
3 EUR

⁽¹⁾ Texto pertinente a efectos del EEE

(continúa al dorso)

INFORMACIONES RELATIVAS AL ESPACIO ECONÓMICO EUROPEO

Órgano de Vigilancia de la AELC

| | | |
|---------------|---|---|
| 2010/C 277/03 | Medidas que no constituyen ayudas estatales con arreglo al artículo 61 del Acuerdo EEE | 3 |
| 2010/C 277/04 | Invitación a presentar observaciones, en aplicación del artículo 1, apartado 2, de la Parte I del Protocolo 3 del Acuerdo entre los Estados de la AELC por el que se instituyen un Órgano de Vigilancia y un Tribunal de Justicia, con respecto a supuestas ayudas concedidas al Fondo de Financiación de la Vivienda | 4 |

Comité Permanente de los Estados de la AELC

| | | |
|---------------|--|----|
| 2010/C 277/05 | Subcomité II sobre libre circulación de capitales y servicios — Grupo de trabajo sobre servicios financieros — Relación anotada de los mercados regulados de conformidad con el artículo 47 de la Directiva 2004/39/CE relativa a los mercados de instrumentos financieros | 16 |
|---------------|--|----|

V *Anuncios*

PROCEDIMIENTOS RELATIVOS A LA APLICACIÓN DE LA POLÍTICA DE COMPETENCIA

Comisión Europea

| | | |
|---------------|---|----|
| 2010/C 277/06 | Notificación previa de una operación de concentración (Asunto COMP/M.6001 — Aker/Lindsay Goldberg/EPAX Holding) — Asunto que podría ser tramitado conforme al procedimiento simplificado ⁽¹⁾ | 18 |
| 2010/C 277/07 | Notificación previa de una operación de concentración (Asunto COMP/M.5990 — Investor/Mölnlycke) — Asunto que podría ser tramitado conforme al procedimiento simplificado ⁽¹⁾ | 19 |

OTROS ACTOS

Comisión Europea

| | | |
|---------------|---|----|
| 2010/C 277/08 | Publicación de la solicitud de reconocimiento de un término tradicional prevista en el artículo 33 del Reglamento (CE) n° 607/2009 de la Comisión | 20 |
|---------------|---|----|



⁽¹⁾ Texto pertinente a efectos del EEE

(véase la página 3 de cubierta)

II

(Comunicaciones)

COMUNICACIONES PROCEDENTES DE LAS INSTITUCIONES, ÓRGANOS Y ORGANISMOS DE LA UNIÓN EUROPEA

COMISIÓN EUROPEA

No oposición a una concentración notificada**(Asunto COMP/M.5862 — Mahle/Behr/Behr Industry)****(Texto pertinente a efectos del EEE)**

(2010/C 277/01)

El 28 de junio de 2010, la Comisión decidió no oponerse a la concentración notificada que se cita en el encabezamiento y declararla compatible con el mercado común. Esta decisión se basa en el artículo 6, apartado 1, letra b) del Reglamento (CE) n° 139/2004 del Consejo. El texto íntegro de la decisión solo está disponible en alemán y se hará público una vez que se elimine cualquier secreto comercial que pueda contener. Estará disponible:

- en la sección de concentraciones del sitio web de competencia de la Comisión (<http://ec.europa.eu/competition/mergers/cases/>). Este sitio web permite localizar las decisiones sobre concentraciones mediante criterios de búsqueda tales como el nombre de la empresa, el número de asunto, la fecha o el sector de actividad,
 - en formato electrónico en el sitio web EUR-Lex (<http://eur-lex.europa.eu/en/index.htm>) con el número de documento 32010M5862. EUR-Lex da acceso al Derecho comunitario en línea.
-

IV

(Información)

INFORMACIÓN PROCEDENTE DE LAS INSTITUCIONES, ÓRGANOS Y ORGANISMOS DE LA UNIÓN EUROPEA

COMISIÓN EUROPEA

Tipo de cambio del euro ⁽¹⁾

13 de octubre de 2010

(2010/C 277/02)

1 euro =

| Moneda | Tipo de cambio | Moneda | Tipo de cambio | | |
|--------|----------------------|---------|----------------|----------------------|-----------|
| USD | dólar estadounidense | 1,3958 | AUD | dólar australiano | 1,4128 |
| JPY | yen japonés | 114,23 | CAD | dólar canadiense | 1,3999 |
| DKK | corona danesa | 7,4565 | HKD | dólar de Hong Kong | 10,8317 |
| GBP | libra esterlina | 0,88120 | NZD | dólar neozelandés | 1,8407 |
| SEK | corona sueca | 9,2662 | SGD | dólar de Singapur | 1,8181 |
| CHF | franco suizo | 1,3352 | KRW | won de Corea del Sur | 1 564,83 |
| ISK | corona islandesa | | ZAR | rand sudafricano | 9,5766 |
| NOK | corona noruega | 8,1350 | CNY | yuan renminbi | 9,3018 |
| BGN | lev búlgaro | 1,9558 | HRK | kuna croata | 7,3308 |
| CZK | corona checa | 24,470 | IDR | rupia indonesia | 12 461,72 |
| EEK | corona estonia | 15,6466 | MYR | ringgit malayo | 4,3172 |
| HUF | forint húngaro | 273,45 | PHP | peso filipino | 60,733 |
| LTL | litas lituana | 3,4528 | RUB | rublo ruso | 42,0055 |
| LVL | lats letón | 0,7095 | THB | baht tailandés | 41,790 |
| PLN | zloty polaco | 3,9545 | BRL | real brasileño | 2,3240 |
| RON | leu rumano | 4,2773 | MXN | peso mexicano | 17,2900 |
| TRY | lira turca | 1,9723 | INR | rupia india | 62,0800 |

⁽¹⁾ Fuente: tipo de cambio de referencia publicado por el Banco Central Europeo.

INFORMACIONES RELATIVAS AL ESPACIO ECONÓMICO EUROPEO

ÓRGANO DE VIGILANCIA DE LA AELC

Medidas que no constituyen ayudas estatales con arreglo al artículo 61 del Acuerdo EEE

(2010/C 277/03)

El Órgano de Vigilancia de la AELC considera que la siguiente medida no constituye ayuda estatal en el sentido del artículo 61, apartado 1, del Acuerdo EEE

| | |
|---|--|
| Fecha de adopción de la decisión: | 30 de marzo de 2010 |
| Asunto no: | 61700 |
| Número de Decisión: | 127/10/COL |
| Estado AELC: | Noruega |
| Región: | Rogaland |
| Denominación (o nombre del beneficiario): | Presunta ayuda concedida en relación con la venta de terrenos por el Ayuntamiento de Hå a la empresa Risa AS |
| Tipo de medida: | No se trata de una ayuda |
| Sector económico afectado: | Venta de terrenos |
| Nombre y dirección del organismo que concede la ayuda: | Ayuntamiento de Hå Rådshusgata 8 4368 Varhaug NORWAY |
| Información adicional: | — |

El texto de la decisión en la lengua auténtica, suprimidos los datos confidenciales, se encuentra en la página Web del Órgano de Vigilancia de la AELC:

<http://www.eftasurv.int/state-aid/state-aid-register/>

Invitación a presentar observaciones, en aplicación del artículo 1, apartado 2, de la Parte I del Protocolo 3 del Acuerdo entre los Estados de la AELC por el que se instituyen un Órgano de Vigilancia y un Tribunal de Justicia, con respecto a supuestas ayudas concedidas al Fondo de Financiación de la Vivienda

(2010/C 277/04)

Mediante Decisión nº 76/10/COL, de 10 de marzo de 2010, reproducida en la versión lingüística auténtica en las páginas siguientes al presente resumen, el Órgano de Vigilancia de la AELC incoó el procedimiento establecido en el artículo 1, apartado 2, de la Parte I del Protocolo 3 del Acuerdo entre los Estados de la AELC por el que se instituyen un Órgano de Vigilancia y un Tribunal de Justicia. Las autoridades islandesas fueron informadas mediante una copia de la Decisión.

El Órgano de Vigilancia de la AELC invita a los Estados de la AELC, a los Estados miembros de la UE y a los terceros interesados a que presenten sus observaciones sobre la medida en cuestión en un plazo de un mes a partir de la fecha de publicación de la presente comunicación, enviándolas a:

EFTA Surveillance Authority
Registry
Rue Belliard/Belliardstraat 35
1040 Bruxelles/Brussel
BELGIQUE/BELGIË

Las observaciones se comunicarán a las autoridades islandesas. Los interesados que presenten observaciones podrán solicitar por escrito, exponiendo los motivos de su solicitud, que su identidad sea tratada de forma confidencial.

RESUMEN

Procedimiento

Mediante carta de 27 de mayo de 2009, las autoridades islandesas notificaron un régimen por el que el Fondo de Financiación de la Vivienda islandés (en lo sucesivo denominado «FFV») compraría a instituciones financieras préstamos hipotecarios sobre propiedades residenciales asegurados con colateral (en lo sucesivo denominado «régimen de préstamos hipotecarios»). El Órgano remitió a las autoridades islandesas dos peticiones de información complementaria.

Evaluación del régimen de préstamos hipotecarios

El motivo para introducir el régimen de préstamos hipotecarios es la falta de liquidez en los mercados financieros islandeses debido al hundimiento del sistema financiero. Con arreglo al régimen, el FFV compra préstamos hipotecarios a empresas financieras, que a cambio reciben bonos del FFV. La transacción constituye un intercambio permanente de activos y las instituciones financieras pueden utilizar los bonos del FFV como colateral para apoyar préstamos en efectivo tomados en el Banco Central de Islandia.

El Órgano considera que en las actuales circunstancias de crisis financiera ningún inversor privado en una economía de mercado habría aceptado un intercambio de activos similar. Por lo tanto, la conclusión preliminar del Órgano es que el régimen de préstamos hipotecarios implica una ayuda estatal.

Para evaluar la compatibilidad, el Órgano evaluó el régimen de préstamos hipotecarios a la luz de las Directrices del Órgano relativas a ayudas estatales sobre activos tóxicos. El Órgano ha detectado varios problemas y en la presente fase, y sobre la base de la información disponible, tiene dudas sobre los elementos que se enumeran a continuación. El Órgano:

- 1) desconoce si la evaluación de los activos, tanto de los préstamos hipotecarios como de los bonos del FFV, refleja el valor económico real y constata que no han sido evaluados por un experto independiente;
- 2) desconoce si la remuneración al Estado es suficiente; y
- 3) le preocupa que el régimen de préstamos hipotecarios sea ilimitado en el tiempo.

Por todo ello, el Órgano tiene dudas con respecto a si el régimen de préstamos hipotecarios puede considerarse compatible con el funcionamiento del Acuerdo EEE sobre la base de las Directrices del Órgano relativas a ayudas estatales sobre activos tóxicos.

El régimen de préstamos hipotecarios se ejecutó antes de su notificación. Su primera aplicación se materializó en un acuerdo de compra de préstamos hipotecarios firmado el 23 de marzo de 2009 entre el FFV y el Fondo de Ahorros Keflavik. Por lo tanto, el régimen de préstamos hipotecarios implica una ayuda ilegal.

Conclusión

A la vista de las consideraciones anteriores, el Órgano ha decidido incoar el procedimiento formal de investigación previsto en el artículo 1, apartado 2, del Acuerdo EEE. Se invita a las partes interesadas a que presenten sus observaciones en el plazo de un mes a partir de la publicación de la presente Decisión en el *Diario Oficial de la Unión Europea*.

EFTA SURVEILLANCE AUTHORITY DECISION

No 76/10/COL

of 10 March 2010

to initiate the formal investigation procedure with regard to the transfer of mortgage loans secured against collateral in residential property from financial undertakings to the Housing Financing Fund (Iceland)

THE EFTA SURVEILLANCE AUTHORITY ⁽¹⁾,

Having regard to the Agreement on the European Economic Area ⁽²⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ⁽³⁾, in particular to Article 24 thereof,

Having regard to Article 1(3) of Part I and Article 4(4) and 6 of Part II of Protocol 3 to the Surveillance and Court Agreement ⁽⁴⁾,

Having regard to the Authority's Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement ⁽⁵⁾, in particular the chapter on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis and the Chapter on the treatment of impaired assets in the EEA banking sector,

Having regard to the Authority's Decision of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3 ⁽⁶⁾,

Whereas:

I. FACTS

1. Procedure

In the context of pre-notification discussions, the Icelandic authorities submitted three letters dated 14 October 2008 (Event No 494902), 3 November 2008 (Event No 496979) and 3 December 2008 (Event No 500670) to the Authority with the intention of introducing a scheme concerning the purchase of mortgage loans (the 'Mortgage Loan Scheme'). The pre-notification discussions formed part of a more general discussion on the financial crisis in Iceland. On 27 May 2009, the Icelandic authorities notified the scheme to the Authority in order to obtain legal certainty (Event No 519720).

⁽¹⁾ Hereinafter referred to as the Authority.

⁽²⁾ Hereinafter referred to as the EEA Agreement.

⁽³⁾ Hereinafter referred to as the Surveillance and Court Agreement.

⁽⁴⁾ Hereinafter referred to as Protocol 3.

⁽⁵⁾ Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the Authority on 19.1.1994, published in the *Official Journal of the European Union* (hereinafter referred to as OJ L 231, 3.9.1994, p. 1 and EEA Supplement No 32, 3.9.1994, p. 1. Hereinafter referred to as the State Aid Guidelines). The updated version of the State Aid Guidelines is published on the Authority's website (<http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/>).

⁽⁶⁾ Decision No 195/04/COL of 14 July 2004, (published in OJ L 139, 25.5.2006, p. 37 and EEA Supplement No 26, 25.5.2006, p. 1), as amended. A consolidated version of the Decision can be found online (<http://www.eftasurv.int/>).

By letter dated 25 June 2009 (Event No 520515) and e-mail dated 29 June 2009 (Event No 523605), the Authority requested additional information. A reply was provided by the Icelandic authorities on 27 July 2009 (Event No 525671). The information submitted was updated by letter of 28 August 2009 (Event No 528493). The case was also discussed in a conference call between the Authority and the Icelandic authorities on 1 July 2009.

The case was further discussed between the Authority and the Icelandic authorities in the context of the State Aid Package Meeting on 4 November 2009.

By letter dated 16 November 2009 (Event No 536644), the Authority requested follow-up information. A reply was provided by the Icelandic authorities on 25 November 2009 (Event No 538088).

2. Description of the measures

2.1. Background

The Icelandic authorities have explained that as a result of turmoil in the global financial markets, the Icelandic financial institutions have been faced with a shortage of liquidity and limited supply of credit. In response to this situation, the Icelandic authorities decided to adopt measures aimed at securing the functioning of financial markets. One of such measures consists of authorising the national housing agency, the Housing Financing Fund (the 'HFF'), to purchase mortgage loans from financial undertakings.

The Icelandic authorities have explained that this is the second scheme authorising the HFF to intervene on behalf of the State in the context of the financial crisis. The first scheme was approved by the Authority by means of Decision No 168/09/COL of 27 March 2009 on an additional loan category of the HFF on lending to banks, saving banks and other financial institutions for the purpose of temporarily refinancing mortgage loans ⁽¹⁾. The major difference between the scheme already approved by the Authority and the Mortgage Loan Scheme is that the former contained an asset swap of a temporary nature whereas under the Mortgage Loan Scheme the asset swap would be permanent. The schemes do not overlap in the sense that they cover the same portfolio of mortgage loans at the same time, because the portfolio of the mortgage loans subject to the temporary scheme must be returned to the beneficiary undertaking before a purchase agreement is put into effect.

The primary objective of the Mortgage Loan Scheme is to provide liquid funds to financial institutions. The market failure intended to be addressed by the measure is the lack of liquidity due to the collapse of the financial system. As a secondary objective, the Mortgage Loan Scheme aims at ensuring the availability of loans on the residential housing market and to safeguard the interests of the homeowners.

The Mortgage Loan Scheme was originally designed as a financing measure for new mortgage loans to be offered by the financial institutions in order to complement the temporary scheme for the refinancing of financial institutions in respect of mortgage loans already given, which was subject to the Authority's Decision No 168/09/COL. The Mortgage Loan Scheme, like the temporary scheme, is principally aimed at guaranteeing the security and availability of mortgage loans and promoting normal price formation in the real estate market ⁽²⁾.

According to the information provided by the Icelandic authorities, the Mortgage Loan Scheme is directed first and foremost at small savings banks that were dependent on access to liquidity from the domestic operators facing liquidity problems themselves ⁽³⁾. The saving banks mainly provide traditional banking services to the local communities (individuals, corporate customers and local authorities) of which they form an integrated part. In many regional areas, the saving banks are the only financial institutions in operation ⁽⁴⁾.

⁽¹⁾ OJ C 241, 8.10.2009, p. 16 and EEA Supplement No 52, 8.10.2009, p. 1. The non-confidential version of the Decision is available on the Authority's website (http://www.efasurv.int/fieldswork/fieldstateaid/stateaidregistry/sadecice09/168_09_col.pdf).

⁽²⁾ See Government Declaration of 19.6.2008 concerning measures related to the real estate and financial markets and the Government's press release of 18.7.2008.

⁽³⁾ Before the financial crisis, the Icelandic banking sector consisted largely of two segments: The first one comprising the three former major banks Glitnir, Landsbanki and Kaupthing which had relatively large international exposure. The second comprised small savings banks which traditionally rely on financing from the bigger banks.

⁽⁴⁾ Decision No 168/09/COL, p. 3.

2.2. *The Mortgage Loan Scheme*

On the basis of the Mortgage Loan Scheme, the HFF is authorised to take over mortgage loans from financial undertakings. It is not necessary to seek the permission of the debtor for such a transfer. The transfer is only possible at the initiative of the respective financial undertaking. Following a written application from the financial institution giving information regarding the estimated size of the mortgage loan pool to be transferred, the HFF enters into negotiations on the terms of the transaction.

The Mortgage Loan Scheme takes the form of a permanent asset swap, according to which the financial institution receives HFF's bonds in exchange for mortgage loans which are transferred to the HFF. The bank can then use the HFF bonds as collateral when taking cash loans with the Central Bank of Iceland. According to the first agreement on the purchase of mortgage loans, signed between the HFF and the Keflavik Saving Fund (SPK), from 2010 onwards, the banks are also authorised to lend and sell the HFF bonds on secondary markets.

As a result of the asset swap, the HFF assumes the role of lender vis-à-vis the borrower of the mortgage loan subject to a transfer. It is not clear whether the borrower acquires the same rights and obligations as other parties in lending transactions with the HFF. According to the Icelandic authorities, the terms and conditions of mortgage loans for borrowers remain unchanged following a transfer to HFF. This would for example mean that loans obtained in foreign currency remain to be in foreign currency following a transfer to HFF. However, based on information submitted by the Icelandic authorities, the Authority has understood that following a transfer the general loan conditions of HFF apply.

All banks, saving banks and credit institutions, which have been granted a licence to operate in Iceland in accordance with the provisions of Act No 161/2002 on financial undertakings, are eligible to participate in the Mortgage Loan Scheme. This also includes subsidiaries of foreign banks established in Iceland and branches of foreign companies.

According to the Icelandic authorities, the valuation of mortgage loans shall be in accordance with their market value. As a rule, the value will be calculated on the basis of the book value of the loan, taking into account the prepayment risk, operation costs and other factors. In order to calculate the market value and to minimise the HFF's credit risk, the HFF performs a valuation of each of the mortgage loans offered by the financial undertaking in accordance with objective criteria, such as the payment status of each debtor, loan-to-value (LTV) ratio, the default status of the respective mortgage loans and the terms of the loan and divides them into three categories:

- (a) non-defaulted mortgage loans that meet all of the HFF's general loan requirements;
- (b) other non-defaulted mortgage loans that do not meet the HFF's general loan requirements;
- (c) defaulted mortgage loans.

While the first two categories are eligible for a transfer to HFF, category (c) is only eligible if the mortgage loans are removed from debt collection and all fees and expenses are paid prior to any transfer.

For credit risk evaluation of mortgages and mortgage pools, the international standard Basel II is used for capital risk assessment of financial institutions. Accordingly, in order to assess the credit risk of mortgage loans, the expected loss is calculated by multiplying the following three factors: probability of default, loss given default and exposure at default. Those variables are assessed for each mortgage loan and for each year of the loan period. If no satisfactory agreement in respect of the credit risk can be reached between the HFF and the beneficiary undertaking, the application is refused.

In addition, in case of involvement of assets denominated in foreign currencies in transactions under the Mortgage Loan Scheme, the currency exchange risk of the HFF should be specifically assessed and taken account of in the pricing of the assets. Payment for assets in foreign currency purchased by the HFF takes place in the form of HFF bonds in foreign currency specifically issued for this purpose.

The final value assessment of the mortgage pool is determined by its performance and the expected loss at the final settlement of the transaction. In exchange for the mortgage loans, the HFF hands over the HFF's bonds ⁽¹⁾. The yield of the HFF's bond subject to the swap also takes into account the duration and terms of the mortgage loans and is considered on the basis of other factors such as pre-payment risk and operating costs.

⁽¹⁾ There might be different forms of compensation, for instance cash payments. However, at present no other type of compensation than the HFF bonds is provided for.

The HFF transfers the HFF bonds in two instalments. At the moment of signature of the agreement between the HFF and the beneficiary financial institution, only up to 80 % of the value of the mortgage loans is due in the HFF bonds, whereas the final settlement takes place 8 to 10 years after the signing of the agreement ⁽¹⁾. The percentage of the value of the HFF bonds to be transferred at the time of signing the agreement decreases in proportion to an increased estimated loss. This ensures that the retained portion of the value of the HFF bonds is always higher than the estimated loss on the mortgage loans. At the time of the final settlement, the HFF transfers to the beneficiary undertaking the remainder of the HFF bonds less the depreciation of the mortgage pool that has already taken place and the estimated loss of the pool throughout its duration.

2.3. Legal basis

The Mortgage Loan Scheme is based on Chapter V of Act No 125/2008 of 6 October 2008 on the authority for treasury disbursements due to unusual financial market circumstances etc., inter alia amending Act No 44/1998 on housing affairs (the 'Emergency Act') ⁽²⁾. Further details have been specified by means of Regulation No 1081/2008 of 26 November 2008 on the authority of the Housing Financing Fund to purchase bonds secured by mortgages in residential housing and issued by financial undertakings (the 'Regulation'). The Regulation was adopted and entered into force on 24 October 2008. In addition, the Board of the Housing Financing Fund issued Rules regarding the purchase of mortgage loans from financial undertakings (the 'Supplementary Rules'). Following the approval by the Minister of Social Affairs and Social Security, the Rules were published on 15 January 2009 and entered into force on the same day.

The first application under the Mortgage Loan Scheme was a mortgage loan transfer agreement signed on 23 March 2009 between the HFF and the Keflavik Saving Fund for a total value of ISK [...] ⁽³⁾. For the time being, there are three beneficiaries of the Mortgage Loan Scheme. In addition to the Keflavik Savings Bank, the HFF has entered into agreements with BYR Savings Bank ⁽⁴⁾ and Bolungarvik Savings Bank ⁽⁵⁾. The Icelandic authorities have also informed the Authority about four further applications which have been made under the Mortgage Loan Scheme.

2.4. Budget and duration

The Icelandic authorities have so far not been able to provide the Authority with either the foreseen annual or total expenditure of this measure.

The Mortgage Loan Scheme has not been limited in time. The Icelandic authorities refer to the temporary nature of the Mortgage Loan Scheme, since its aim is to address the temporary liquidity crisis of the financial institutions. The total estimated number of beneficiaries has not been specified in the notification.

3. Comments by the Icelandic authorities

The Icelandic authorities have argued that the transfer of the mortgage loans under the Mortgage Loan Scheme takes place on market terms, thereby ensuring that no State aid is involved in the transfer of the HFF bonds to the financial institutions. The Icelandic authorities have only notified the measure for legal certainty. In the event, the Authority should, however, find that the Mortgage Loan Scheme involves elements of State aid, the Icelandic authorities argue that the scheme is compatible on the basis of Article 61(3)(b) of the EEA Agreement.

The Icelandic authorities have also argued that although the Mortgage Loan Scheme is not limited in time, the aim of the Mortgage Loan Scheme is to address the temporary liquidity crisis of the financial institutions, and hence the scheme is of a temporary nature.

II. ASSESSMENT

1. The presence of State aid within the meaning of Article 61(1) EEA

Article 61(1) of the EEA Agreement reads as follows:

'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.'

⁽¹⁾ The definite time of the final settlement is normally specified in the agreement.

⁽²⁾ Act No 125/2008 entered into force upon publication.

⁽³⁾ According to the agreement between the parties of the swap, the final price was to be settled on 15.4.2009.

⁽⁴⁾ Agreement signed on 20.5.2009 for the value of ISK [...].

⁽⁵⁾ Agreement signed on 3 July and 5 August 2009 for the final value of ISK [...] and ISK [...] respectively.

1.1. *Presence of State resources*

The measure must be granted by the State or through State resources.

The Mortgage Loan Scheme has been introduced by the Emergency Act, passed by the Icelandic Parliament. Further details have been specified by means of the Regulation and the Supplementary Rules.

In line with settled case law, aid may be granted directly by the State or by public or private bodies established or appointed by it to administer the aid ⁽¹⁾.

In exchange for mortgage loans the applicant financial institutions receive HFF bonds. The HFF was established by the Housing Act No 44/1998 as a State housing agency, wholly owned by the Icelandic State and under administrative surveillance of the Minister of Social Affairs and Social Security. The Minister appoints the five-member Board of directors of the Fund. The tasks of HFF (i.e. to give loans to individuals, municipalities and companies for financing the acquisition or construction of residential housing) are laid down and regulated in statutory rules, namely Act No 44/1998 on Housing Affairs and secondary legislation (such as Regulation No 57/2009 on the loan categories of the HFF).

The present measures are therefore decided by the State and executed through a State agency, the HFF, which is subject to the full control of the State. The actions of HFF are therefore imputable to the State. The transfer of HFF bonds to financial institutions means therefore that State resources are involved.

1.2. *Favouring undertakings or the production of goods*

1.2.1. *Economic advantage*

The aid measure must confer on beneficiaries advantages that relieve them of charges that are normally borne from their budgets.

As explained by the Icelandic authorities, the Mortgage Loan Scheme was established in order to enable banks to obtain the necessary financing from other sources than the usual interbank lending, which was drying up as a result of the global difficulties of the financial sector. The Authority considers it unlikely that, in the current financial crisis, financing would have been provided by a market economy investor on a comparable scale and on similar conditions in favour of the participating banks. Furthermore, the scheme does not contain a pricing mechanism to ensure a correct market price. The price obtained for the mortgage loans may therefore be above market value and hence give the undertakings an economic advantage.

The Mortgage Loan Scheme improves the position of the beneficiary banks by increasing the liquidity of banks' assets and removing a source of volatility on the balance sheet. Moreover, since the calculation of the value of the underlying assets does not take into account their real economic value and the actual losses, it cannot be excluded that in individual cases of application of the Mortgage Loan Scheme, the beneficiary bank might enjoy further benefits.

1.2.2. *Selectivity*

To constitute State aid, the measure must favour certain undertakings, the production of certain goods or the provision of certain services. The Mortgage Loan Scheme is selective as it favours only certain financial institutions. The fact that all undertakings in a given sector may benefit from a measure does not lead to the conclusion that the measure is of a general nature. On the contrary, the measure is selective as it only favours one sector of the economy, i.e. financial institutions.

1.3. *Distortion of competition and effect on trade between Contracting Parties*

The Mortgage Loan Scheme is liable to distort competition and affect trade between the Contracting Parties. The Mortgage Loan Scheme is intended to support small saving banks involved in mortgage loans activities in Iceland and thereby strengthens their position compared to those of their competitors in other EEA countries. Moreover, all banks and financial institutions, in Iceland, whatever their size, are in principle eligible to apply for support under the scheme. The services and products in the banking and financial sectors are traded internationally. The Mortgage Loan Scheme is therefore liable to distort competition and affect trade between the Contracting Parties in the European Economic Area.

⁽¹⁾ Case 78/76 *Steinike and Weinlig v Federal Republic of Germany* [1977] ECR 595, para. 21.

2. Procedural requirements

Pursuant to Article 1(3) of Part I of Protocol 3, 'the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid (...). The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision'.

The Icelandic authorities notified Mortgage Loan Scheme by letter of 27 May 2009 (Event No 519720). However, the Rules of the Board of the Housing Financing Fund regarding the purchase of mortgage loans from financial undertakings entered into force already on 15 January 2009, and the first agreement on the purchase of mortgage loans was signed on 23 March 2009, i.e. before the Authority had taken a final decision thereon. The Authority therefore concludes that the Icelandic authorities have not respected their obligations pursuant to Article 1(3) of Part I of Protocol 3.

3. Compatibility of the aid

Article 61(3)(b) EEA enables the Authority to declare aid compatible with the functioning of the EEA Agreement if it has the effect 'to remedy a serious disturbance in the economy of an EC Member State or an EFTA State'. The Authority recalls that, in line with the case law of the Court of Justice and the decision making practice of the European Commission (hereinafter referred to as the Commission), Article 61(3)(b) needs to be applied restrictively and must tackle a disturbance in the entire national economy⁽¹⁾.

The Authority recognises that the Mortgage Loan Scheme was adopted amid the current international financial crisis. In Iceland, small saving banks faced liquidity problems as a result of financial difficulties of the larger banks, which traditionally provided funding to the saving banks' sector. Unlike the larger financial undertakings, the saving banks did not have direct access to funding by the Central Bank.

In line with the Authority's Guidelines on the application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis, the Authority considers that this measure falls to be assessed under Article 61(3)(b) EEA.

In order to be declared compatible with the EEA Agreement, the aid must be granted on the basis of non-discriminatory criteria, be appropriate in terms of being well targeted to remedy a serious disturbance in the economy and be necessary and proportionate thereto, limiting negative spill-over effects for competitors. The Impaired Assets Guidelines⁽²⁾ (the 'IAG') translates these general principles into conditions specific for impaired asset relief. The Authority considers that the appropriate framework for assessing the compatibility of the measure is the IAG.

The IAG define impaired assets relief as all measures whereby a bank is dispensed from the need for severe downward value adjustments of certain asset classes. This is also the cases for the present measure. Therefore the Mortgage Loan Scheme must fulfil the conditions for the compatibility of assets relief as set out in the IAG.

3.1. Eligibility of assets

Section 5.4 of the IAG states that a coordinated approach within the EEA is necessary for purposes of determining the assets which are eligible for State aid under the IAG. To this end, Annex 3 of the IAG contains a list of categories of impaired assets which are considered clearly eligible. This list includes housing mortgages. Since all assets transferred to HFF under the Mortgage Loan Scheme are housing mortgages the Authority considers that the impaired assets under the scheme are eligible for State aid under the IAG.

⁽¹⁾ Joined Cases T-132/96 and T-143/96 *Freistaat Sachsen and Volkswagen AG v Commission* [1999] ECR II-3663, paragraph 167. See Commission's Decision in Case NN 70/07 *Northern Rock* (OJ C 43, 16.2.2008, p. 1), Commission's Decision in Case NN 25/08 *Rescue aid to WestLB* (OJ C 189, 26.7.2008, p. 3), Commission's Decision of 4.6.2008 in Case C 9/08 *SachsenLB*, (OJ C 71, 18.3.2008, p. 14-23). Authority's Decision No 36/09/COL of 30.1.2009 on the Agreement between the Norwegian State and Eksportfinans ASA concerning state funding of Eksportfinans; Decision No 205/09/COL of 8.5.2009 on the scheme for temporary recapitalisation of fundamentally sound banks in order to foster financial stability and lending to the real economy; Decision No 235/09/COL of 20.5.2009 on the Norwegian Temporary Small Aid Scheme; Decision No 168/09/COL of 27.3.2009 on an additional loan category of the Icelandic Housing Financing Fund on lending to banks, saving banks and other financial institutions for the purpose of temporarily refinancing mortgage loans.

⁽²⁾ The updated version of the State Aid Guidelines is published on the Authority's website (<http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/>).

3.2. *Management of assets*

According to the IAG, it is for the EFTA States to choose the most appropriate model for relieving banks of assets, but irrespective of the model chosen, it is necessary to ensure clear functional and organisational separation between the beneficiary bank and its impaired assets, notably as to their management, staff and clientele.

Under the Mortgage Loan Scheme, the Icelandic State, via HFF, takes full and permanent control of the assets relieved. In the view of the Authority this ensures clear functional and organisational separation between the beneficiary bank and its impaired assets.

3.3. *Valuation*

The IAG require that the national authorities use an independent third-party expert opinion for the purpose of valuation of eligible assets. The valuation should be transparent, preferably based on a range of approaches and common criteria to be adopted across EEA States ⁽¹⁾.

The Icelandic authorities have explained that the value assessment performed by the HFF used a model designed by KPMG Iceland. The Icelandic authorities have argued that as HFF has used a credit valuation model designed by outside consultants (KPMG Iceland), the valuation of the mortgage loan pool has been performed by an independent expert valuator. However, the Authority considers that, to be in line with the IAG, the valuation has to be designed and performed in full by an independent expert. To the Authority's knowledge, no (other) third-party expert opinions are available in this case.

Moreover, Chapter 5.5 of the IAG sets out a method of valuation of impaired assets in the context of an asset-relief measure. Paragraph 39 and 40 and Annex 3 introduce the concepts of cost, current market value, real economic value and the transfer value.

Cost means the carrying amount or nominal value of the loans minus impairment. Current market value is the market value the impaired assets could have obtained at the market. The real economic value is the underlying long-term economic value of the assets, on the basis of underlying cash flows and broader time horizons. This should be calculated both for a base case scenario and a stress case scenario. The transfer value is the value attributed to impaired assets in the context of an asset-relief program.

Furthermore, as long as the transfer price is higher than the market value, there is aid involved. In order for the aid to be declared compatible, the transfer price should be lower than or equal to the real economic value.

Moreover, the IAG require that adequate remuneration for the State shall be secured. This may be secured by setting the transfer price below the real economic value.

The Icelandic authorities have explained that the value of the mortgage loan pools are based on the book value of each individual mortgage, less expected loss, corrected for accrued interest and indexation. This was done in line with the credit evaluation model, designed by KPMG Iceland, which the Icelandic authorities have presented to the Authority.

In terms of the IAG, this value corresponds to book value less impairment, i.e. cost. The value of the mortgage loans to be transferred to the HFF therefore represents cost. The Icelandic government has therefore failed to show (or calculate) that the transfer value is based on the real economic value.

On the basis of the available information, in line with the considerations of the IAG, the Authority cannot exclude that incompatible State aid is involved in the notified Mortgage Loan Scheme. In order to assess the compatibility of the scheme, a proper evaluation of the real economic value of the mortgage loans has to be carried out.

3.4. *Valuation of the HFF bonds*

The HFF will give HFF bonds in return for the impaired assets received. To ensure the compatibility of the swap transaction with the EEA Agreement, it is necessary to calculate the correct value the HFF bond, in the same manner as the impaired assets.

The Icelandic Authorities have explained that they have calculated the value of HFF bonds by matching HFF bonds with the relevant mortgage loan portfolios (nominal value, duration, etc.), discounting with the yield of the mortgage loan portfolios, and subtracting operational costs.

⁽¹⁾ Annex 1 IAG.

As regards the methodology, the Authority is of the view that the value of the HFF bonds should have been calculated separately from the valuation of the mortgage loan pools, instead of linking the two. By linking the two valuations, the evaluation of the HFF bonds becomes blurred and non-transparent thereby preventing the Authority from verifying that the correct value is fixed.

In addition, the Authority considers that the value of the HFF bonds should be calculated using the yield of the HFF bonds, i.e. finding the net present value of the future yields of the HFF bonds over their remaining duration. Based on the information provided by the Icelandic authorities, this methodology does not appear to have been applied in the case at hand.

On this basis, the Authority doubts whether the Icelandic authorities have carried out a correct valuation of the HFF bonds, given in exchange for impaired assets, from the financial institutions under the Mortgage Loan Scheme. In order to assess whether the Mortgage Loan Scheme is compatible with the EEA Agreement, the value of the HFF bonds given, in exchange for the mortgages loans, by the Icelandic Authorities would have to be obtained and assessed.

3.5. *Burden sharing*

As regards burden sharing, the IAG state in Section 5.2 the general principle that banks ought to bear the losses associated with impaired assets to the maximum extent. That implies first that banks should bear the difference between the nominal value and the real economic value of the impaired assets.

As the Icelandic government has not established the real economic value of the mortgages loan pools, it is difficult to assess to which extent the banks bears the difference between the nominal value and the real economic value of the impaired assets.

Given that the Authority has doubts as regards the correct valuation of the assets prior to government intervention, there are also doubts as regards the necessary degree of burden sharing included in the Mortgage Loan Scheme.

3.6. *Remuneration*

The remuneration paid by the banks to HFF, is also an important element of burden sharing. The Authority recalls that, as noted in Annex 4 to the IAG, it is necessary for EFTA States to ensure that 'any pricing of asset relief must include remuneration for the State that adequately takes account of the risks of future losses exceeding those that are projected in determination of the "real economic value" and any additional risk stemming from a transfer value above the real economic value'.

The IAG suggest that such remuneration may be provided by setting the transfer price of assets to a sufficient extent below the 'real economic value' so as to provide for adequate compensation for the risk in the form of a commensurate upside, or by adapting the guarantee fee accordingly. Any pricing system would have to ensure that the overall contribution of beneficiary banks reduces the extent of net State intervention to the minimum necessary (i.e. burden sharing). However, as the Icelandic authorities has provided the Authority neither with an assessment of the real economic value of the mortgage loans pools, nor a real economic value of the HFF bonds used as payment, it is at this stage difficult to assess if the Icelandic authorities have complied with the remuneration requirement.

The IAG further suggest that identifying the necessary target return could be 'inspired' by the remuneration that would have been required for recapitalisation measures. This should be in line with the chapter on recapitalisation of banks of the Authority's State Aid Guidelines, while taking into account the specific features of asset-relief measures and particularly the fact that they may involve higher exposure than capital injections.

The Guidelines refer to the Recommendations of the Governing Council of the European Central Bank on the pricing of recapitalisations, which prescribes the following:

'As a lower bond, the required rate of return on subordinated debt should be the sum of the government bond yield of the country where the bank is domiciled, the issuing bank's five-year CDS spread on subordinated debt (!), and an add-on fee of 200 basis points per annum to cover operational costs and provide banks with adequate incentives.

As an upper bond, the required rate of return on ordinary shares would be determined as the sum of the government bond yield of the country where the bank is domiciled, an equity risk premium of 500 basis points per annum ^(?), and an add-on fee of 100 basis points per annum to cover operational costs and provide banks with adequate incentives.

- ⁽¹⁾ If this is not available one should use 73 bp, which is the median of all A CDS subordinated debt spreads in the euro area (at the time).
- ⁽²⁾ This represents a measure of the realised nominal return on euro area banks' ordinary shares in excess of a minimum risk yield over an extended span of time, in order to avoid periods of excessive volatility.'

The Icelandic authorities have argued that 95 basis points (bp) are charged to the beneficiary banks.

According to the information available to the Authority, HFF normally adds a premium of 95 bp to its own cost of capital, to cover operating costs (25 bp), prepayment risk (50 bp) and credit loss (20 bp) when it offers its regular mortgage loans to its customers.

In the Mortgage Loan Scheme, the margin subtracted from the weighted average interest rate of the mortgage loan portfolio, used in the value assessment, resembles the normal HFF customer margin.

The Authority is under the impression that this will reduce the value of the mortgage loan pool, but only with a margin which the mortgage loan takers will pay to the HFF later on. This can therefore not be considered as remuneration paid by the banks to the State for assets relief measures.

Moreover, to date, the Authority has not received any documentary evidence of this premium not being covered by the customers.

Furthermore, even if the Authority was to accept the margin as a price element for the swap, the question still remains whether the level is sufficient to represent an appropriate remuneration.

By reference to the above mentioned principles in the ECB Recommendation, the yield of the HFF bonds could be considered to represent the Government's bonds yield of the country where the bank is domiciled. In addition, the premium should include an add-on between 273 bp to 600 bp. As the measure at hand is a permanent swap, as opposed to a loan or another temporary measure, the add-on should rather be closer to the upper bond, than the lower bond. Therefore, 95 bp which the Icelandic authorities have presented as a price for the swap is far below what could be seen as corresponding to an adequate market premium, which is necessary in order to declare the Mortgage Loan Scheme compatible.

There are therefore doubts as to whether the 95 bp that the HFF charges the beneficiary banks for the swap transactions under the Mortgage Loan Scheme can be accepted as an adequate remuneration.

3.7. *Unlimited scope and duration*

The Icelandic authorities have not specified any time limit within which the financial institutions can enter the Mortgage Loan Scheme (so-called entrance window) ⁽¹⁾. The IAG state that in order to find asset relief measures compatible their duration must not go beyond the period of the financial crisis ⁽²⁾. Based on the Commission's decision practice, asset relief measures are approved for maximum six months. Every extension (usually for another six months) must be re-notified well in advance and take account of the evolution of the situation on the financial markets. Provided that biyearly reports are submitted, a scheme may be in force for a period of up to two years ⁽³⁾. In other words, the asset relief measures are not approved for an unlimited period of time.

Furthermore, the Icelandic authorities have neither specified the amount of the total budget of the scheme, nor estimated annual expenditure under the Mortgage Loan Scheme. The fact that the Icelandic authorities have not submitted an estimated number of beneficiaries and no limit of the value of assets potentially subject to a swap indicates that the scheme is unlimited in scope. It is therefore not possible for the Authority to determine whether the Mortgage Loan Scheme is proportionate.

⁽¹⁾ The argument of the Icelandic authorities that the nature of Act No 125/2008 is temporary and thus schemes implemented on its basis by definition do not have permanent nature cannot be accepted. There is no provision whatsoever in any of the relevant piece of legislation which would prevent the Icelandic authorities from continuing the implementation of the Mortgage Loan Scheme for an indefinite time. This clearly contradicts the general principle of proportionality and necessity which are the core rules of the guidelines for financial crisis. The fact that the Icelandic Parliament intended to review Act No 125/2009 by 1.1.2010 does not change this conclusion. To date, the Icelandic Parliament has not reviewed the act.

⁽²⁾ See paragraph 12 of the Authority's Guidelines on financial institutions.

⁽³⁾ Paragraph 24 of the Authority's Guidelines on financial institutions.

3.8. No behavioural commitments

The Icelandic authorities have not suggested imposing any behavioural commitments on the beneficiary banks in order to limit distortions of competition triggered by the Mortgage Loan Scheme. In order to minimise the beneficiary's commercial advantage, usually, such commitments include prohibition of marketing of the State intervention in favour of the bank concerned or a ban on growth. In recapitalisation cases, aggressive commercial conduct or growth of business activities through acquisitions can be prohibited. Therefore, in the context of the formal investigation, the Authority will assess the convenience of imposing such behavioural commitments.

3.9. Restructuring or viability plan

The Icelandic authorities have not committed themselves to submitting any restructuring, liquidation or viability plans (or given the Authority an assessment if they are necessary).

The Authority recalls that paragraph 54 of the IAG establishes that a need for in-depth restructuring will be presumed where an appropriate valuation of impaired assets according to the principles set out in Section 5.5 and Annex 4 would lead to negative equity/technical insolvency without State intervention. Repeated requests for aid and departure from the general principles set out in the IAG will normally point to the need for such in-depth restructuring.

Furthermore, paragraph 55 of the IAG establishes that an in-depth restructuring would also be required where the bank has already received State aid in whatever form that either contributes to coverage or avoidance of losses, or altogether exceeds 2 % of the bank's total risk-weighted assets, while taking the specific features of the situation of each beneficiary into due consideration.

Information on the follow-up measures is one of the core principles of the application of the Impaired Assets Guidelines⁽¹⁾ and has been consistently applied by the Commission in its decision-making practice. Such plans should be provided in sufficient time for the Authority to evaluate the potential compatibility⁽²⁾. In order to facilitate the work on the respective plans, the Authority refers to the considerations in the Authority's guidelines on return to viability⁽³⁾ and to Table 2 in Annex III of the Impaired Assets Guidelines⁽⁴⁾.

If any restructuring, liquidation or viability plans are deemed necessary, according to the IAG, the Icelandic authorities will have to commit themselves to such plans.

4. Conclusion

Based on an assessment of the information submitted by the Icelandic authorities, the Mortgage Loan Scheme appears to constitute State aid within the meaning of Article 61(1) of the EEA Agreement. Furthermore, the Authority doubts that the Mortgage Loan Scheme can be regarded as complying with Article 61(3)(b) of the EEA Agreement, in combination with the requirements laid down in the IAG. The Authority thus doubts that the Mortgage Loan Scheme is compatible with the functioning of the EEA Agreement.

Consequently, and in accordance Article 4(4) of Part II of Protocol 3, the Authority is obliged to open the procedure provided for in Article 1(2) of Part I of Protocol 3. The decision to open proceedings is without prejudice to the final decision of the Authority, which may conclude that the measures in question are compatible with the functioning of the EEA Agreement.

In light of the foregoing considerations, the Authority, acting under the procedure laid down in Article 1(2) of Part I of Protocol 3, invites the Icelandic authorities to submit their comments within one month of the date of receipt of this Decision.

In light of the foregoing considerations, within one month of receipt of this decision, the Authority request the Icelandic authorities to provide all documents, information and data needed for assessment of the compatibility of the transfer of mortgage loans secured against collateral in residential property from financial undertakings to the HFF.

⁽¹⁾ See paragraph 48 et seq. of the IAG.

⁽²⁾ In some cases the Commission required the plans to be submitted within three months.

⁽³⁾ See the chapter on 'Return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules', under the State Aid Guidelines on the Authority's home page.

⁽⁴⁾ This table outlines good practices in presenting information of the bank's activities related to the impaired assets that would feed into the viability review for cases of individual aid granting, but could be applied *per analogy* also to schemes.

The Authority invites Iceland to forward a copy of this decision to any potential aid recipients of the aid immediately.

The Authority would like to remind the Icelandic authorities that, according to the provisions of Protocol 3, any incompatible aid unlawfully put at the disposal of the beneficiaries will have to be recovered, unless this recovery would be contrary to the general principal of law,

HAS ADOPTED THIS DECISION:

Article 1

The EFTA Surveillance Authority has decided to initiate the formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice regarding the scheme on the transfer of mortgage loans secured against collateral in residential property from financial undertakings to the Housing Financing Fund.

Article 2

The Icelandic authorities are invited, pursuant to Article 6(1) of Part II of Protocol 3 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice, to submit their comments on the opening of the formal investigation procedure within one month from the notification of this Decision.

Article 3

The Icelandic authorities are requested to provide within one month from notification of this decision, all documents, information and data needed for assessment of the compatibility of the aid measure.

Article 4

This Decision is addressed to the Republic of Iceland.

Article 5

Only the English version is authentic.

Done at Brussels, 10 de marzo de 2010.

For the EFTA Surveillance Authority

Per SANDERUD
President

Kurt JÄGER
College Member

COMITÉ PERMANENTE DE LOS ESTADOS DE LA AELC

SUBCOMITÉ II SOBRE LIBRE CIRCULACIÓN DE CAPITALES Y SERVICIOS — GRUPO DE TRABAJO SOBRE SERVICIOS FINANCIEROS

Relación anotada de los mercados regulados de conformidad con el artículo 47 de la Directiva 2004/39/CE relativa a los mercados de instrumentos financieros

(2010/C 277/05)

El artículo 47 de la Directiva 2004/39/CE del Parlamento Europeo y del Consejo, de 21 de abril de 2004, relativa a los mercados de instrumentos financieros autoriza a cada Estado miembro a conceder la condición de «mercado regulado» a aquellos mercados constituidos en su territorio que cumplan su legislación.

De conformidad con lo dispuesto en el artículo 4, apartado 1, inciso 14, de la Directiva 2004/39/CE, se entiende por «mercado regulado» un sistema multilateral, operado o gestionado por un gestor del mercado, que reúne o brinda la posibilidad de reunir — dentro del sistema y según sus normas no discrecionales — los diversos intereses de compra y de venta sobre instrumentos financieros de múltiples terceros para dar lugar a contratos con respecto a los instrumentos financieros admitidos a negociación conforme a sus normas o sistemas, y que está autorizado y funciona de forma regular de conformidad con lo dispuesto en el título III de esa misma Directiva.

El artículo 47 de la Directiva 2004/39/CE exige que cada Estado miembro mantenga una lista actualizada de los mercados regulados por él autorizados. Dicha información deberá comunicarse a los demás Estados miembros y a la Comisión. En ese mismo artículo se establece la obligación de que la Comisión publique una vez al año en el *Diario Oficial de la Unión Europea* una lista de los mercados regulados notificados.

El apartado 6, letra b), del Protocolo 1 del Acuerdo EEE establece que cuando, con arreglo a alguno de los actos a los que se hace referencia, se hayan de publicar hechos, procedimientos, informes o similares en el *Diario Oficial de la Unión Europea*, la información correspondiente relativa a los Estados de la AELC se publicará en una sección separada del mismo dedicada al EEE.

La presente lista ha sido elaborada por el Comité Permanente de los Estados de la AELC sobre la base de la información suministrada por los Estados concernidos de la AELC. En la lista se indica la denominación de cada uno de los mercados que según las autoridades nacionales competentes se ajustan a la definición de «mercado regulado» a 31 de diciembre de 2009. Además, se indica la entidad gestora de dichos mercados, así como la autoridad competente responsable de elaborar o aprobar la normativa del mercado.

| País | Título del mercado regulado | Entidad gestora | Autoridad competente para la designación y supervisión del mercado |
|---------------|---|---|--|
| Islandia | 1. Kauphöll Íslands (Bolsa islandesa) (mercado regulado) [First North (sistema de negociación multilateral)] | Nasdaq OMX | Fjármálaeftirlitið (Autoridad de Supervisión Financiera) |
| Liechtenstein | No disponible (*) | No disponible (*) | No disponible (*) |
| Noruega | 1. Bolsa de Oslo (Mercado oficial) — Mercado de acciones — Mercado de derivados (financieros) — Mercado de deuda 2. Oslo Axess — Mercado de acciones 3. Nord Pool (Mercado oficial) — Mercado de derivados (materias primas) | Oslo Børs ASA Oslo Børs ASA Nord Pool ASA | Finanstilsynet (Autoridad de supervisión financiera de Noruega) |

| País | Título del mercado regulado | Entidad gestora | Autoridad competente para la designación y supervisión del mercado |
|------|---|---------------------------------|--|
| | 4. Imarex — Mercado de derivados (materias primas) 5. Fish Pool — Mercado de derivados (materias primas) | Imarex ASA Fish Pool ASA | |

(*) No existe mercado ni mercado de valores en Liechtenstein.

V

(Anuncios)

PROCEDIMIENTOS RELATIVOS A LA APLICACIÓN DE LA POLÍTICA DE
COMPETENCIA

COMISIÓN EUROPEA

Notificación previa de una operación de concentración**(Asunto COMP/M.6001 — Aker/Lindsay Goldberg/EPAX Holding)****Asunto que podría ser tramitado conforme al procedimiento simplificado****(Texto pertinente a efectos del EEE)**

(2010/C 277/06)

1. El 6 de octubre de 2010, la Comisión recibió la notificación, de conformidad con lo dispuesto en el artículo 4 del Reglamento (CE) n° 139/2004 del Consejo ⁽¹⁾, de un proyecto de concentración por el cual las empresas Aker BioMarine ASA («ABM»), Noruega, a través de su filial al 100 % Trygg Pharma AS, y Lindsay Goldberg LLC («LG»), Estados Unidos, adquieren el control conjunto, a tenor de lo dispuesto en el artículo 3, apartado 1, letra b), del Reglamento comunitario de concentraciones, de la empresa EPAX Holding ASA («EPAX»), Noruega, mediante adquisición de acciones.

2. Las actividades comerciales de las empresas en cuestión son las siguientes:

- ABM: recolección de krill antártico y producción de derivados como la harina y el aceite de krill,
- LG: inversiones a largo plazo en empresas con oportunidades de crecimiento en diferentes sectores por todo el mundo,
- EPAX: producción de aceite de pescado concentrado para uso en distintos suplementos dietéticos del segmento de la alimentación natural.

3. Tras un examen preliminar, la Comisión considera que la operación notificada podría entrar en el ámbito de aplicación del Reglamento comunitario de concentraciones. No obstante, se reserva su decisión definitiva al respecto. En virtud de la Comunicación de la Comisión sobre el procedimiento simplificado para tramitar determinadas concentraciones en virtud del Reglamento comunitario de concentraciones ⁽²⁾, este asunto podría ser tramitado conforme al procedimiento simplificado establecido en dicha Comunicación.

4. La Comisión invita a los interesados a que le presenten sus posibles observaciones sobre el proyecto de concentración.

Las observaciones deberán obrar en poder de la Comisión en un plazo máximo de diez días a partir de la fecha de la presente publicación. Podrán enviarse por fax (+32 22964301), por correo electrónico a COMP-MERGER-REGISTRY@ec.europa.eu o por correo, con indicación del número de referencia COMP/M.6001 — Aker/Lindsay Goldberg/EPAX Holding, a la siguiente dirección:

Comisión Europea
Dirección General de Competencia
Registro de Concentraciones
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ DO L 24 de 29.1.2004, p. 1 («Reglamento comunitario de concentraciones»).

⁽²⁾ DO C 56 de 5.3.2005, p. 32 («Comunicación sobre el procedimiento simplificado»).

Notificación previa de una operación de concentración**(Asunto COMP/M.5990 — Investor/Mölnlycke)****Asunto que podría ser tramitado conforme al procedimiento simplificado****(Texto pertinente a efectos del EEE)**

(2010/C 277/07)

1. El 7 de octubre de 2010, la Comisión recibió la notificación, de conformidad con lo dispuesto en el artículo 4 del Reglamento (CE) n° 139/2004 del Consejo ⁽¹⁾, de un proyecto de concentración por el cual la empresa Investor AB («Investor», Suecia), bajo el control de la Fundación Knut y Alice Wallenberg, adquiere el control, a tenor de lo dispuesto en el artículo 3, apartado 1, letra b), del Reglamento comunitario de concentraciones, de la totalidad de la empresa Mölnlycke AB («Mölnlycke», Suecia, actualmente controlada conjuntamente por Investor y Morgan Stanley) mediante la adquisición de acciones.

2. Las actividades comerciales de las empresas en cuestión son las siguientes:

- Investor: *holding* industrial activo en las siguientes áreas empresariales: inversiones básicas (acciones en empresas que cotizan en bolsa), inversiones de explotación (especialmente en Aleris, una empresa privada de asistencia sanitaria, y en Mölnlycke), inversiones en valores privados e inversiones financieras,
- Mölnlycke: fabricante y proveedor de productos quirúrgicos desechables y para el cuidado de heridas, principalmente para el sector sanitario profesional.

3. Tras un examen preliminar, la Comisión considera que la operación notificada podría entrar en el ámbito de aplicación del Reglamento comunitario de concentraciones. No obstante, se reserva su decisión definitiva al respecto. En virtud de la Comunicación de la Comisión sobre el procedimiento simplificado para tramitar determinadas concentraciones en virtud del Reglamento comunitario de concentraciones ⁽²⁾, este asunto podría ser tramitado conforme al procedimiento simplificado establecido en dicha Comunicación.

4. La Comisión invita a los interesados a que le presenten sus posibles observaciones sobre el proyecto de concentración.

Las observaciones deberán obrar en poder de la Comisión en un plazo máximo de diez días a partir de la fecha de la presente publicación. Podrán enviarse por fax (+32 22964301), por correo electrónico a COMP-MERGER-REGISTRY@ec.europa.eu o por correo, con indicación del número de referencia COMP/M.5990 — Investor/Mölnlycke, a la siguiente dirección:

Comisión Europea
Dirección General de Competencia
Registro de Concentraciones
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ DO L 24 de 29.1.2004, p. 1 («Reglamento comunitario de concentraciones»).

⁽²⁾ DO C 56 de 5.3.2005, p. 32 («Comunicación sobre el procedimiento simplificado»).

OTROS ACTOS

COMISIÓN EUROPEA

Publicación de la solicitud de reconocimiento de un término tradicional prevista en el artículo 33 del Reglamento (CE) nº 607/2009 de la Comisión

(2010/C 277/08)

De acuerdo con el artículo 33 del Reglamento (CE) nº 607/2009 de la Comisión ⁽¹⁾, toda solicitud de reconocimiento de un término tradicional debe publicarse en el Diario Oficial, serie C, con el fin de informar a terceras partes de la existencia de dicha solicitud, a efectos de una posible oposición al reconocimiento y a la protección del término tradicional objeto de la solicitud.

PUBLICACIÓN DE UNA SOLICITUD DE RECONOCIMIENTO DE UN TÉRMINO TRADICIONAL DE ACUERDO CON EL ARTÍCULO 33 DEL REGLAMENTO (CE) Nº 607/2009 DE LA COMISIÓN

Fecha de recepción 22.6.2010

Número de páginas 17

Lengua de la solicitud Inglés

Número de expediente TDT-US-N0020

Solicitante: Wine America
1212 New York Avenue, Suite 425
Washington, DC 20005
UNITED STATES OF AMERICA

California Export Association
425 Market St., Suite 1000
San Francisco, CA 94105
UNITED STATES OF AMERICA

Denominación: NOBLE

— Término tradicional en virtud del artículo 118 *duovicies*, apartado 1, letra b), del Reglamento (CE) nº 1234/2007.

Lengua:

— Artículo 31, apartado 1, letra b), del Reglamento (CE) nº 607/2009 de la Comisión.

Lista de denominaciones de origen o indicaciones geográficas protegidas en cuestión:

— Denominaciones de origen protegidas.

⁽¹⁾ DO L 193 de 24.7.2009, p. 60.

Categorías de productos vitícolas:

- Vino, vino de licor [anexo XI *ter* del Reglamento (CE) n° 1234/2007 del Consejo].

Definición:

- Un vino alcoholizado de los Estados Unidos de una denominación de origen tal como se define en el título 27, punto 4.25 del *Code of Federal Regulations*, que se ha envejecido.
-

Publicación de la solicitud de reconocimiento de un término tradicional prevista en el artículo 33 del Reglamento (CE) nº 607/2009 de la Comisión

(2010/C 277/09)

De acuerdo con el artículo 33 del Reglamento (CE) nº 607/2009 de la Comisión ⁽¹⁾, toda solicitud de reconocimiento de un término tradicional debe publicarse en el Diario Oficial, serie C, con el fin de informar a terceras partes de la existencia de dicha solicitud, a efectos de una posible oposición al reconocimiento y a la protección del término tradicional objeto de la solicitud.

PUBLICACIÓN DE UNA SOLICITUD DE RECONOCIMIENTO DE UN TÉRMINO TRADICIONAL DE ACUERDO CON EL ARTÍCULO 33 DEL REGLAMENTO (CE) Nº 607/2009 DE LA COMISIÓN

Fecha de recepción 22.6.2010

Número de páginas 17

Lengua de la solicitud Inglés

Número de expediente TDT-US-N0021

Solicitante: Wine America
1212 New York Avenue, Suite 425
Washington, DC 20005
UNITED STATES OF AMERICA

California Export Association
425 Market St., Suite 1000
San Francisco, CA 94105
UNITED STATES OF AMERICA

Denominación: RUBY

— Término tradicional en virtud del artículo 118 *duovicies*, apartado 1, letra b), del Reglamento (CE) nº 1234/2007.

Lengua:

— Artículo 31, apartado 1, letra b), del Reglamento (CE) nº 607/2009 de la Comisión.

Lista de denominaciones de origen o indicaciones geográficas protegidas en cuestión:

— Denominaciones de origen protegidas.

Categorías de productos vitícolas:

— Vino de licor [anexo XI *ter* del Reglamento (CE) nº 1234/2007 del Consejo].

Definición:

— La denominación «Ruby» designa un tipo de vino alcoholizado de Estados Unidos envejecido antes de ser embotellado. En el momento del embotellado, presenta un color rubí profundo y tiende a ser robusto, de cuerpo intenso y afrutado. Sin embargo, estos vinos pueden reflejar las características de un envejecimiento esmerado que muestre notas «evolucionadas». Pueden mezclarse vinos de varias añadas con el fin de mantener las características principales de color y aroma. La alcoholización del vino debe realizarse con aguardiente de uva.

⁽¹⁾ DO L 193 de 24.7.2009, p. 60.

Publicación de la solicitud de reconocimiento de un término tradicional prevista en el artículo 33 del Reglamento (CE) n° 607/2009 de la Comisión

(2010/C 277/10)

De acuerdo con el artículo 33 del Reglamento (CE) n° 607/2009 de la Comisión ⁽¹⁾, toda solicitud de reconocimiento de un término tradicional debe publicarse en el Diario Oficial, serie C, con el fin de informar a terceras partes de la existencia de dicha solicitud, a efectos de una posible oposición al reconocimiento y a la protección del término tradicional objeto de la solicitud.

PUBLICACIÓN DE UNA SOLICITUD DE RECONOCIMIENTO DE UN TÉRMINO TRADICIONAL DE ACUERDO CON EL ARTÍCULO 33 DEL REGLAMENTO (CE) N° 607/2009 DE LA COMISIÓN

Fecha de recepción 22.6.2010

Número de páginas 16

Lengua de la solicitud Inglés

Número de expediente TDT-US-N0022

Solicitante: Wine America
1212 New York Avenue, Suite 425
Washington, DC 20005
UNITED STATES OF AMERICA

California Export Association
425 Market St., Suite 1000
San Francisco, CA 94105
UNITED STATES OF AMERICA

Denominación: SOLERA

— Término tradicional en virtud del artículo 118 *duovicies*, apartado 1, letra b), del Reglamento (CE) n° 1234/2007.

Lengua:

— Artículo 31, apartado 1, letra b), del Reglamento (CE) n° 607/2009 de la Comisión.

Lista de denominaciones de origen o indicaciones geográficas protegidas en cuestión:

— Denominaciones de origen protegidas.

Categorías de productos vitícolas:

— Vino de licor [anexo XI *ter* del Reglamento (CE) n° 1234/2007 del Consejo].

Definición:

— La denominación «Solera» designa un método de utilización de cubas o barricas que contienen vinos de diferentes edades. Se saca de la solera vino de la barrica que contiene la mezcla de añadas más viejas. A continuación se rellenan las barricas de cada fila con vino que se saca de las barricas de la fila de edad superior y el barril que contiene la mezcla de vinos más jóvenes se repone con vino nuevo. Con este sistema de mezclas se obtiene un producto cuyo color oscila entre el pajizo pálido y el ámbar oscuro, dependiendo del tipo que se produzca. Este sistema se reserva para la elaboración de vinos alcoholizados.

⁽¹⁾ DO L 193 de 24.7.2009, p. 60.

| <u>Número de información</u> | Sumario (<i>continuación</i>) | Página |
|------------------------------|---|--------|
| 2010/C 277/09 | Publicación de la solicitud de reconocimiento de un término tradicional prevista en el artículo 33 del Reglamento (CE) n° 607/2009 de la Comisión | 22 |
| 2010/C 277/10 | Publicación de la solicitud de reconocimiento de un término tradicional prevista en el artículo 33 del Reglamento (CE) n° 607/2009 de la Comisión | 23 |



Precio de suscripción 2010 (sin IVA, gastos de envío ordinario incluidos)

| | | |
|--|---|------------------|
| Diario Oficial de la UE, series L + C, solo edición impresa | 22 lenguas oficiales de la UE | 1 100 EUR al año |
| Diario Oficial de la UE, series L + C, edición impresa + CD-ROM anual | 22 lenguas oficiales de la UE | 1 200 EUR al año |
| Diario Oficial de la UE, serie L, solo edición impresa | 22 lenguas oficiales de la UE | 770 EUR al año |
| Diario Oficial de la UE, series L + C, CD-ROM mensual (acumulativo) | 22 lenguas oficiales de la UE | 400 EUR al año |
| Suplemento del Diario Oficial (serie S: Anuncios de contratos públicos), CD-ROM, dos ediciones a la semana | Plurilingüe: 23 lenguas oficiales de la UE | 300 EUR al año |
| Diario Oficial de la UE, serie C: Oposiciones | Lengua(s) en función de la oposición | 50 EUR al año |

La suscripción al *Diario Oficial de la Unión Europea*, que se publica en las lenguas oficiales de la Unión Europea, está disponible en 22 versiones lingüísticas. Incluye las series L (Legislación) y C (Comunicaciones e informaciones).

Cada versión lingüística es objeto de una suscripción aparte.

Con arreglo al Reglamento (CE) nº 920/2005 del Consejo, publicado en el Diario Oficial L 156 de 18 de junio de 2005, que establece que las instituciones de la Unión Europea no estarán temporalmente vinculadas por la obligación de redactar todos los actos en irlandés y de publicarlos en esta lengua, los Diarios Oficiales publicados en lengua irlandesa se comercializan aparte.

La suscripción al Suplemento del Diario Oficial (serie S: Anuncios de contratos públicos) reagrupa las 23 versiones lingüísticas oficiales en un solo CD-ROM plurilingüe.

Previa petición, las personas suscritas al *Diario Oficial de la Unión Europea* podrán recibir los anexos del Diario Oficial. La publicación de estos anexos se comunica mediante una «Nota al lector» insertada en el *Diario Oficial de la Unión Europea*.

El formato CD-ROM se sustituirá por el formato DVD durante el año 2010.

Venta y suscripciones

Las suscripciones a diversas publicaciones periódicas de pago, como la suscripción al *Diario Oficial de la Unión Europea*, están disponibles en nuestra red de distribuidores comerciales, cuya relación figura en la dirección siguiente de Internet:

http://publications.europa.eu/others/agents/index_es.htm

EUR-Lex (<http://eur-lex.europa.eu>) ofrece acceso directo y gratuito a la legislación de la Unión Europea. Desde este sitio puede consultarse el *Diario Oficial de la Unión Europea*, así como los Tratados, la legislación, la jurisprudencia y la legislación en preparación.

Para más información acerca de la Unión Europea, consulte: <http://europa.eu>

