

Bail-in: How far does it have to go?

***The case of the expropriation of
share- and bondholders in Slovenia
now at the European Court of Justice***

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Bail-in: the principles

- general principle: prior to any state aid to a bank in the EU, its creditors must participate in »burden sharing« through either a conversion into equity or a write-down of their claim's principal
- **consultation: 30 March 2012:** EC distributes to a selected group of financial institutions a discussion paper posing a series of questions regarding their views on possible bail-in principles and practices
- **guidelines: 1 August 2013:** EC Banking Communication, *Official Journal of the EU* **C216**:1-15, 30 July 2013
- **directive: 15 May 2014:** EU Bank Recovery and Resolution Directive (BRRD / Directive 2014/59/EU), *Official Journal of the EU* **L173**:190-348, 12 June 2014
- *Official Journal of the EU:*
 - series L:** EU legislation
 - series C:** documents of the EU institutions, bodies and agencies

Bail-in: the (very diverse) practices

- **Netherlands – February 2013 (SNS Reaal):**
 - shareholders and subordinated bondholders are wiped out without compensation



Government of the Netherlands



Dutch minister of Finance makes offer for compensation due to the nationalisation of SNS REAAL

News item | 04-03-2013 | 12:04

The Dutch minister of Finance makes an offer for compensation due to the expropriation of shares and subordinated debt of SNS REAAL and SNS Bank. The offer amounts to €0,- for both the expropriated shares as well as the subordinated debt.

Bail-in: the (very diverse) practices

- **Netherlands – February 2013 (SNS Reaal):**
 - shareholders and subordinated bondholders are wiped out without compensation
- **but:** in July 2013, the Dutch authorities offer to holders of the 2003 issue that was offered also over-the-counter, i.e. to non-professional investors, a full compensation of their claim (nominal value *plus interest*)

BloombergBusiness



SNS Reaal Offers Bondholders \$66 Million Ahead of Court Ruling

by Maud van Gaal

July 11, 2013 – 12:06 PM CEST



SNS Reaal NV offered to pay 50 million euros (\$66 million) to some holders of subordinated debt seized during the Dutch bank's nationalization, while others seeking compensation will have to await a court ruling.

SNS didn't properly inform investors of the risks associated with buying the participation certificates, a type of subordinated debt, the Utrecht-based bank said in a written statement today. The compensation for buying the bonds sold in June 2003 is equal to the nominal value plus interest investors would have earned on 10-year government bonds, it said.

Bail-in: the (very diverse) practices

- **Netherlands – February 2013 (SNS Reaal):**
 - shareholders and subordinated bondholders are wiped out without compensation
- **but:** in July 2013, the Dutch authorities offer to holders of the 2003 issue that was offered also over-the-counter, i.e. to non-professional investors, a full compensation of their claim (nominal value *plus interest*)
- 97% of these holders accept the offer

5.1.4 Participation certificates

Among the subordinated bonds of SNS Bank NV expropriated by the State are so-called third series participation certificates (€ 57 million). Shortly after the nationalisation, the Minister requested management to conduct a fact-finding investigation to ascertain whether there had been any irregularities in the offer of and/or advice concerning these certificates in the past and, if required, to draw up a proposal for compensating those affected. Based on the investigation performed, SNS Bank NV made a proposal for compensation to the clients in question on 11 July 2013. At the time of publication of this annual report, 97% of the clients had accepted SNS Bank NV's offer. From the total provision of € 53 million, which was recognised for the payment of the compensation in the first half of 2013, the amount of € 51.3 million was paid out in the course of 2013.

Bail-in: the (very diverse) practices

- **Netherlands – February 2013 (SNS Reaal):**
 - shareholders and subordinated bondholders are wiped out without compensation ...
 - ... **but** non-professional investors are then compensated in full
- 19 December 2013: EC issues final decision "*not to raise objections*" to the performed restructuring, thus declaring it compliant with state aid rules

The screenshot shows the European Commission's website for the case SA.36598 Restructuring of SNS REAAL. The page includes a navigation menu with 'HOME', 'Policy areas', 'Sectors', 'Who is in charge?', 'Competition and you', and 'Cases'. A sub-menu for 'Competition and you' is open, showing 'What's new?', 'Manuals', and 'Contact'. The main content area displays the case details in a table format.

SA.36598 Restructuring of SNS REAAL	
Member State:	Netherlands
Primary Objective:	Remedy for a serious disturbance in the economy
Legal basis primary:	Art. 107(3)(b) TFEU – Remedy serious disturbance
Legal basis secondary:	Crisis – Financial sector – Recapitalisation Communication, 2009 Crisis – Financial sector – Restructuring Communication 2009-2010
Sector:	K – Financial and insurance activities
Aid instrument:	Other
Case Type:	Ad Hoc Case
Duration:	until 31.12.2017
Notification or Registration Date:	26.04.2013
DG Responsible:	Competition DG
Related Cases:	SA.35382
2013/N	
Decision on 19.12.2013:	Decision not to raise objections
Press release:	IP/13/1280
Decision Text:	Letter to the Member State – authentic language nl
Publication on 03.10.2014:	Official Journal: JOCE_C/348/2014

Bail-in: the (very diverse) practices

- **Cyprus – March 2013 (Bank of Cyprus):**
 - shareholders are diluted through state recapitalization at share price at 1% of the nominal value

Cyprus Mail



Home / Business

Old BoC shareholders seek court order

AUGUST 14TH, 2014 BUSINESS, CYPRUS

0 COMMENTS



By George Psyllides

CLOSE to 300 old Bank of Cyprus shareholders have filed a request seeking a court order preventing a share capital increase before the "real" value of their shares was restored.

Numbering approximately 88,000, the bank's old shareholders saw their shares' value diminished to 1.0 per cent in March 2013 when the bank was restructured following a conversion of 47.5 per cent of uninsured deposits into equity, the absorption of failed Laiki bank and the selling off of the bank's Greek operations to Piraeus bank.

RELATED POST...

BoC's Ackermann: priority is to reduce NPLs

Bondholders stage peaceful protest outside BoC (Updated with Ackermann response)

BoC says moral hazard avoided with new law on sale of loans

Bail-in: the (very diverse) practices

- **Cyprus – March 2013 (Bank of Cyprus):**
 - shareholders are diluted through state recapitalization at share price at 1% of the nominal value
 - all bonds and deposits exceeding 100,000€ (to the extent of 47% of the amount exceeding 100,000€) are converted into shares, receiving per 1€ of claim one share with nominal value of 1€ and book value (at that time) of 0.61€
 - the shares are (re-)listed at the Cyprus stock exchange on 16 December 2014, and are currently trading at ~0.20€ per share

Cyprus Mail



Home / Business

Bondholders urged not to attend BoC AGM

SEPTEMBER 4TH, 2013

BUSINESS, CYPRUS

1 COMMENT



THE association of bank bondholders who claim they were duped into buying high-yield products called on its members yesterday not to take part in the Bank of Cyprus (BoC) AGM as they would lose their right to compensation

"To secure your interests you must not attend the next BoC AGM on September 10, 2013, nor give proxy, unless you have old stock and you will appear in the capacity of the old shareholder," the association said in a statement.

[BoC bonds were converted to shares.](#)

RELATED POST...

Ackermann and BOC board members in share buying spree

'BoC policies were an accident waiting to happen' court hears

Bank CEO accused of interfering with press

Bail-in: the (very diverse) practices

- **Cyprus – March 2013 (Bank of Cyprus):**
 - shareholders are diluted by ~99%
 - all bonds and deposits exceeding 100,000€ (to the extent of 47% of the amount exceeding 100,000€) are converted into shares ...
- ... **but** to this date, EC has not published its official position on the performed restructuring, and the EC DG COMP database contains no entry for "Bank of Cyprus" or "BoC"

The screenshot shows the 'COMPETITION' section of the European Commission website. The search interface is titled 'Search competition cases (all policy areas)'. The search criteria are as follows:

- Policy Area: All (selected), Antitrust / Cartels, Cartels, Merger, State Aid
- Case Number: (empty)
- Case Title or Company Name: Bank of Cyprus
- Decision Date: From 01/01/2013 to 30/11/2015
- Economic sector (NACE CODE): (empty)
- Web Publication Date: (empty)

Buttons for 'Clear' and 'Search' are visible. Below the search form, a table header is shown with columns: Policy Area, Case Number, Member State, Last Decision Date, Title. The table content shows 'No record found'.

Bail-in: the (very diverse) practices

- **Spain – March 2013
(Bankia, Banko Gallego, Catalunya Banc, NCG Banco):**
 - shareholders are diluted through state recapitalization at share price at 1% of the nominal value (achieved by reverse stock split and renomination of shares to the pre-split nominal value)
 - holders of perpetual bonds are subject to 36-50% haircut (i.e., they retain 50-64% of their original claim)
 - holders of subordinated bonds with maturity are subject to 11-15% haircut (i.e., retain 85-89% of their claim).



Press release disclosing the resolutions adopted in the FROB Steering Committee

22nd March 2013

The Steering Committee of the FROB (Fund for the Orderly Restructuring of the Banking Sector), at its meeting today, dealt with a range of matters relating to the restructuring and winding up of credit entities. It has designed the road map or itinerary to recapitalize the BFA-Bankia Group; estimated the average haircuts for each type of financial instrument (preferred securities, perpetual subordinated debt and subordinated debt with maturity date) for the Group-1 entities; analysed the press release put out after the Council of Ministers' meeting regarding a liquidity mechanism for unlisted shares by the FGDEC (the Fund for the Guarantee of Deposits in Credit Entities), and the establishment and roll-out of hybrid-product arbitration proceedings by the FROB entities (NCG Banco, Catalunya Banc and BFA-Bankia).

ROAD MAP FOR THE RECAPITALISATION OF BANKIA

A set of transactions has been determined within the framework of the BFA-Bankia Group restructuring process. FROB will resolve these and publicly announce them by virtue of the powers established in Act 9/2012, 14th November, on the restructuring and resolution of credit entities. Their implementation is scheduled for the forthcoming weeks, and it is estimated that the Group's recapitalization will be definitively concluded by the end of May 2013.

The transactions necessary to follow this road map to such outcome are described in detail below. They must respect the principles and objectives of the banking sector restructuring and start with an initial absorption of costs or losses by current shareholders in Bankia before the entrance of new capital, and a contribution to these restructuring costs by the holders of preferred securities and subordinated debt, minimising the burden on taxpayers and seeking a balance between the costs to the public and private sectors.

1. The first step towards the necessary absorption of costs or losses by Bankia shareholders is a reduction of the entity's capital. This will mean reducing the nominal value of the existing shares from their current value of 2 euros down to 1 euro-cent, thereby increasing the entity's

The Fund for the Orderly Restructuring of the Banking Sector (FROB) is a public law entity with its own legal personality whose purpose is to manage the restructuring and winding up of credit entities. The FROB is regulated by Act 09/12, 14th November 2012 on the restructuring and winding up of credit entities.

Bail-in: the (very diverse) practices

- **Spain – March 2013
(Bankia, Banko Gallego, Catalunya Banc, NCG Banco):**
 - shareholders are diluted by ~99%
 - holders of perpetual bonds retain 50-64% of their claim, and holders of subordinated bonds with maturity 85-89% of their claim
- **28 November 2012 (Bankia),
25 July 2013 (Gallego),
20 June 2014 (NCG),
17 Dec. 2014 (Catalunya):**
EC issues final decision
"not to raise objections" to
the performed restructuring,
thus declaring it compliant
with state aid rules

European Commission
European Commission > Competition > Cases

COMPETITION

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SA.36500 Recapitalisation and Restructuring of Banco Gallego S.A.

Member State:	Spain
Primary Objective:	Remedy for a serious disturbance in the economy
Legal basis primary:	Art. 107(3)(b) TFEU - Remedy serious disturbance
Sector:	K - Financial and insurance activities
Aid instrument:	Other
Case Type:	Ad Hoc Case
Duration:	from 30.07.2013 to 31.12.2015
Notification or Registration Date:	08.04.2013
DG Responsible:	Competition DG
Related Cases:	SA.33734
	2013/N
Decision on 25.07.2013:	Decision not to raise objections
Press release:	IP/13/745
Decision Text:	Letter to the Member State - authentic language en
Publication on 21.03.2014:	Official Journal: JOCE C/83/2014

Bail-in: the (very diverse) practices

- **Austria – September 2013 (Hypo Alpe Adria Group):**
 - the state as the only shareholder recapitalizes the bank (it was nationalized in 2009, when the state acquired all shares at 1€ per share)
 - **but** subordinated bondholders retain their claims in full
- 3 September 2013: EC issues final decision "*not to raise objections*" to the performed restructuring, thus declaring it compliant with state aid rules

The screenshot shows the European Commission's Competition Cases page. The header includes the European Commission logo and the word 'COMPETITION'. Below the header is a navigation menu with 'HOME', 'Policy areas', 'Sectors', 'Who is in charge?', 'Competition and you', and 'Cases'. A link for 'What's new?' is also present. The main content area displays the case title 'SA.32554 € - Restructuring aid for Hypo Group Alpe Adria' and a detailed table of case information.

Member State:	Austria
Primary Objective:	Remedy for a serious disturbance in the economy
Legal basis primary:	Art. 107(3)(b) TFEU – Remedy serious disturbance
Legal basis secondary:	Crisis – Financial sector – Banking Communication, 2008 Crisis – Financial sector – Recapitalisation Communication, 2009
Sector:	K – Financial and insurance activities
Aid instrument:	Direct grant Other forms of equity intervention Rescue and restructuring
Case Type:	Ad Hoc Case
Notification or Registration Date:	10.02.2011
DG Responsible:	Competition DG
	2009/C
Decision on 24.05.2011:	Decision to extend proceedings
Press release:	IP/11/636
Publication on 04.02.2012:	Official Journal: JOCE C/31/2012
Decision on 19.07.2011:	Decision to extend proceedings
Decision Text:	Letter to the Member State – authentic language en
Decision on 05.12.2012:	Decision to extend proceedings Positive decision
Press release:	IP/12/1315
Decision Text:	Letter to the Member State – authentic language en
Publication on 28.02.2013:	Official Journal: JOCE C/59/2013
Decision on 03.09.2013:	Positive decision
Press release:	IP/13/811
Decision Text:	Letter to the Member State – authentic language de Letter to the Member State – working language en [disclaimer]
Publication on 14.06.2014:	Official Journal: JOCE L/176/2014

Bail-in: the (very diverse) practices

- **Italy – November 2013 (Monte dei Paschi di Siena):**
 - shareholders are diluted by ~90%
 - **but** subordinated bondholders retain their claims in full

Regulatory capital (EUR mln)

	31/12/13	31/12/12	Change	Chg %
Core Tier 1	8,354	8,237	117	1.4%
Tier 1 capital	8,973	8,841	132	1.5%
Tier 2 capital	3,866	4,446	-580	-13.1%
Items to be deducted	-	-564	564	n.s.
Total regulatory capital	12,839	12,724	115	0.9%
Risk Weighted Assets	84,499	92,828	-8,329	-9.0%
Core Tier 1 Ratio	9.9%	8.9%	1.0%	n.s.
Tier 1 Ratio	10.6%	9.5%	1.1%	n.s.
Total Capital Ratio	15.2%	13.7%	1.5%	n.s.

39 Consolidated Report on Operations

Capital adequacy

Capital for regulatory purposes and capital ratios

Regulatory Capital was estimated on the basis of calculation metrics introduced by the Basel Accord (Advanced Internal Rating Based (IRB) and Advanced Measurement Approach (AMA) methodologies for portfolios and legal entities covered by validated internal models). Comparative data as at 31 December 2012 was restated and differs from data published in the year-end Report on Operations because, on 7 May 2013, the Bank was requested by the Supervisory Authority to implement a retroactive change to Tier 1, reducing it by EUR 76 mln. The change refers to regulatory treatment of the "Fresh 2008" transaction.

	31/12/13	31/12/12	Change	Chg %
Core Tier 1	8,354	8,237	117	1.4%
Tier 1 capital	8,973	8,841	132	1.5%
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Tier 1 Ratio	10.6%	9.5%	1.1%	n.s.
Total Capital Ratio	15.2%	13.7%	1.5%	n.s.

Group's capital ratios showed an increase with respect to December 2012, EUR 8.3 bn decrease in risk-weighted assets (RWA). This decrease was, in turn, due to the decrease in credit and counterparty risk (EUR -9.2 bn) attributable to the decline in default risk, which was partially mitigated by a slight increase in other risks.

	31/12/13	31/12/12	Var. Ass.	Var. %
Counterparty risk	62,025	71,261	-9,236	-13.0%
Other risks	6,486	6,048	439	7.3%
Total RWA	8,243	8,347	-105	-1.3%
Other risks	1,663	1,285	379	29.5%
Other risks	6,082	5,887	195	3.3%
Total RWA	84,499	92,828	-8,329	-9.0%

BALANCE SHEET 2013

Bail-in: the (very diverse) practices

- **Italy – November 2013 (Monte dei Paschi di Siena):**
 - shareholders are diluted by ~90%
 - **but** subordinated bondholders retain their claims in full
- 27 November 2013: EC declares that *"the public support granted for the restructuring [in the form of 3.9 bn € of state recapitalization and 13 bn € of state guarantees] is in line with EU state aid rules"*



EUROPEAN COMMISSION

PRESS RELEASE

Brussels, 27 November 2013

State aid: Commission authorises restructuring aid for Italian bank Monte dei Paschi di Siena

The European Commission has concluded that the public support granted for the restructuring of the Italian bank Banca Monte dei Paschi di Siena S.p.A. (MPS) is in line with EU state aid rules. MPS received a state recapitalisation of €3.9 billion and state guarantees of €13 billion granted to MPS under the Italian guarantee scheme for banks (case SA.34032). In view of MPS' commitments to raise at least €2.5 billion capital from the market and to redeem the full share of state bonds within five years, the Commission approved the measures for reasons of financial stability. The Commission is satisfied that MPS' restructuring plan ensures the long-term viability of the bank, provides for an appropriate contribution by MPS to the costs of restructuring and mitigates competition distortions created by the aid.

Commission Vice President Joaquín Almunia in charge of competition policy, commented: "The restructuring plan of MPS will allow the bank to return to viability by addressing the problems that led to its difficulties. Our decision should ensure that the State capital will be repaid to the benefit of the Italian taxpayers".

In December 2012, the Commission temporarily approved a €3.9 billion capital injection through hybrid instruments (the so-called "Monti Bonds") that Italy planned to grant to MPS, to enable it to comply with European Banking Authority (EBA) requirements, subject to the notification of a restructuring plan (see [IP/12/1383](#)). Italy notified the required restructuring plan in June 2013 and updated it in November.

The Commission found that MPS' five-year restructuring plan ensures that the bank will become viable in the long term without the need for additional state support. The Commission verified that the plan rests on prudent assumptions, in particular the assumptions relating to the spread on Italian government bonds. On that basis the bank plans to achieve a competitive return on equity at the end of the restructuring period, in particular based on improved efficiency and a reduction of operating costs. At the same time the risk profile of the bank will be reduced through an improved corporate governance structure, a reduction of the sovereign exposure and limitations to trading activities. The remuneration of the management will also be capped.

Further, the restructuring plan provides for a sufficient contribution by MPS to the costs of restructuring, in order to reduce the burden for the taxpayer. Through the reduction of the balance sheet by 25 % the plan also mitigates the distortions of competition created by the aid.

A key element of the restructuring plan is a capital increase of at least €2.5 billion that MPS plans to realise on the market. This would allow the bank to repay a large amount of state capital.

Bail-in: the (very diverse) practices

- **Slovenia – 18 December 2013 (NLB, NKBM, Abanka, Probanka, Factor banka):**
 - all shareholders are wiped out without compensation
 - all subordinated bondholders are wiped out without compensation
- 18 Dec. 2013 (NLB, NKBM, Probanka, Factor banka), 18 August 2014 (Abanka): EC issues final decision "*not to raise objections*" to the performed restructuring, thus declaring it compliant with state aid rules

The screenshot shows the European Commission's Competition website. The header includes the European Commission logo and the word 'COMPETITION'. Below the header is a navigation menu with 'HOME' selected, followed by 'Policy areas', 'Sectors', 'Who is in charge?', 'Competition and you', and 'Cases'. A link for 'What's new?' is also visible. The main content area displays the case title 'SA.35709 Restructuring of NKBM' and a table with details.

SA.35709 Restructuring of NKBM

Member State:	Slovenia
Primary Objective:	Remedy for a serious disturbance in the economy
Sector:	K.64 - Financial service activities, except insurance and pension funding
Aid instrument:	Other forms of equity intervention
Case Type:	Ad Hoc Case
Notification or Registration Date:	02.05.2013
DG Responsible:	Competition DG
	2013/N
Decision on 18.12.2013:	Decision not to raise objections
Press release:	IP/13/1276
Decision Text:	Letter to the Member State - authentic language en fr
Publication on 23.04.2014:	Official Journal: JOCE C/120/2014

Bail-in: the (very diverse) practices

- **Austria – February 2014 (Hypo Alpe Adria Group):**
 - as estimates show the granted state aid will not be sufficient to sustain regulatory capital adequacy, the finance minister calls for bail-in of hybrid bonds
 - **but** the central bank governor objects:
"Austria should not demand creditors of Hypo to take a haircut on the bank's debt!"

REUTERS

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Business News | Sat Feb 22, 2014 8:29am EST

Austria should stand by Hypo creditors: Nowotny

VIENNA | BY GEORGINA PRODHAN



Austria's nationalised lender Hypo Alpe Adria headquarters is pictured in Klagenfurt February 12, 2014.
REUTERS/HEINZ-PETER BADER

Austria should not demand creditors of struggling state bank Hypo Alpe Adria HAABI.UL take a "haircut" on the debt, central bank head Ewald Nowotny said, contradicting the country's finance minister.

CLIMATE CHANGE CONFERENCE



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First small sign of climate accord on five-year review of carbon cuts

Desperately seeking strategy, utilities lost in low-carbon world

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Bail-in: the (very diverse) practices

- Austria – August 2014 (Hypo Alpe Adria Group):**

- the ministry of finance drafts, and the national parliament enacts a *lex specialis* on reorganisation of Hypo (HaaSanG), "extinguishing" 56 subordinated loan agreements amounting to liabilities of 890 mn €

C 330/4 EN Official Journal of the European Union 23.9.2014

NOTICES FROM MEMBER STATES

Notification of reorganisation measures by the Austrian Financial Market Authority relating to the debts of HYPO ALPE ADRIA BANK INTERNATIONAL AG, with its headquarters in Klagenfurt am Wörthersee, Austria
(Publication pursuant to Article 6 of Directive 2001/24/EC of the European Parliament and of the Council on the reorganisation and winding up of credit institutions)
(2014/C 330/05)

The Austrian Financial Market Authority (FMA) wishes to announce that, in accordance with Article 6 of Directive 2001/24/EC of 4 April 2001 on the reorganisation and winding up of credit institutions (OJ L 125, 5.5.2001, p. 15) and on the basis of § 7, clause 2 of the Federal Law on reorganisation measures for HYPO ALPE ADRIA BANK INTERNATIONAL AG (HaaSanG — published in Federal Law Gazette (BGBl.) I No 51/2014), it has issued the FMA Regulation on the implementation of reorganisation measures in accordance with § 7, clause 2, in conjunction with § 3 and § 4, clause 1 HaaSanG (HaaSanV).

With the publication of the Regulation on 7 August 2014 (BGBl. II No 195/2014), the following debts and any liability assumed therefor, with the exception of the collateral and rights in re listed in Articles 21 to 23 of Directive 2001/24/EC of 4 April 2001 on the reorganisation and winding up of credit institutions, are extinguished in accordance with § 3 HaaSanG:

1. Supplementary capital zero bond 1999-2014 (ISIN AT0000327374), No 1 of Annex 1 to HaaSanG;
2. Floating supplementary capital bond 1999-2014 (ISIN AT0000327382), No 2 of Annex 1 to HaaSanG;
3. 5,25 % supplementary capital bond 2003-2015 (ISIN XS0178449467), No 3 of Annex 1 to HaaSanG;
4. Floating supplementary capital bond 2003-2015 (ISIN AT0000355326), No 4 of Annex 1 to HaaSanG;
10. 5,01 % bond 2004-2017 (ISIN AT0000155334), No 10 of Annex 1 to HaaSanG;
11. Floating-rate bond 2003-2017 (ISIN XS0170866775), No 11 of Annex 1 to HaaSanG;
12. Floating-rate registered bond 2004-2017 for EUR 20 000 000, term start date 16.8.2004 (internal number QOXDB9964079), No 12 of Annex 1 to HaaSanG;
13. Floating-rate bond 2004-2017 (ISIN XS0205170268), No 13 of Annex 1 to HaaSanG;
14. 4,875 % bond 2004-2017 (ISIN XS0184026374), No 14 of Annex 1 to HaaSanG;
15. Floating-rate bond 2002-2017 (ISIN XS0154247299), No 15 of Annex 1 to HaaSanG;

With the publication of the Regulation on 7 August 2014 (BGBl. II No 195/2014), the following debts and any liability assumed therefor, with the exception of the collateral and rights in re listed in Articles 21 to 23 of Directive 2001/24/EC of 4 April 2001 on the reorganisation and winding up of credit institutions, are extinguished in accordance with § 3 HaaSanG:

Bail-in: the (very diverse) practices

- **Austria – August 2014 (Hypo Alpe Adria Group):**
 - the ministry of finance drafts, and the national parliament enacts a *lex specialis* on reorganisation of Hypo (HaaSanG), "extinguishing" 56 subordinated loan agreements amounting to liabilities of 890 mn €
- **but:** in July 2015, the Austrian Constitutional Court overturns HaaSanG ...

The Hypo Reorganization Act (Hypo-Sanierungsgesetz – HaaSanG) is unconstitutional. It is repealed in its entirety. A deadline for correction has not been set. The Act is no longer applicable.



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Presseinformation

Hypo Reorganization Act Unconstitutional

The Constitutional Court has concluded its proceedings on the so-called Hypo Reorganization Act and rendered the following decision:

The Hypo Reorganization Act (Hypo-Sanierungsgesetz – HaaSanG) is unconstitutional. It is repealed in its entirety. A deadline for correction has not been set. The Act is no longer applicable.

Essentially, there are two points that render the Act unconstitutional.

- o In the Hypo case, there are different groups of creditors, for which the legislator can, in principle, foresee different regimes. There are "normal" creditors (now creditors of HETA) and "junior creditors", whose position in the event of insolvency is junior, i.e. subordinate, to that of normal creditors.

However, the Hypo Reorganization Act further differentiates within the group of junior creditors merely on the basis of the cut-off date (set at 30 June 2019). Exposures of junior creditors falling due before that date are deemed to be expired; claims falling due after that date remain unaffected.

Such procedure, i.e. applying unequal treatment regimes within the group of junior creditors depending on the cut-off date, is unconstitutional. This constitutes a violation of the fundamental right to the protection of property.

Bail-in: the (very diverse) practices

- **Austria – August 2014 (Hypo Alpe Adria Group):**
 - the ministry of finance drafts, and the national parliament enacts a *lex specialis* on reorganisation of Hypo (HaaSanG), "extinguishing" 56 subordinated loan agreements amounting to liabilities of 890 mn €
- **but:** in July 2015, the Austrian Constitutional Court overturns HaaSanG, with its president declaring: "*Claims of investors cannot simply be declared to have been extinguished!*"



VfGH-Präsident Gerhart Holzinger: "Die Forderungen der Investoren können nicht einfach für erloschen erklärt werden".

Bail-in: the (very diverse) practices

- **Portugal – August 2014 (Banco Espírito Santo):**
 - the bank is split into a good bank (named Novo Banco) and a bad bank (retaining the name Espírito Santo)
 - existing shareholders and subordinated bondholders remain shareholders and bondholders of the bad bank, respectively
 - the state recapitalizes the good bank and becomes its sole shareholder
 - depositors and senior bondholders have their claims to the good bank
- 3 August 2014: EC issues the decision "*not to raise objections*" to the performed restructuring

The screenshot shows the European Commission's website for the Competition DG. The page title is "COMPETITION" and the breadcrumb trail is "European Commission > Competition > Cases". The navigation menu includes "HOME", "Policy areas", "Sectors", "Who is in charge?", "Competition and you", and "Cases". There are links for "What's new?", "Manuals", and "Contact".

SA.39250 Monitoring of Banco Espírito Santo

Member State:	Portugal
Primary Objective:	Remedy for a serious disturbance in the economy
Sector:	K - Financial and insurance activities
Aid instrument:	Provision of risk capital
Case Type:	Individual Application
Notification or Registration Date:	30.07.2014
DG Responsible:	Competition DG
	2014/N
Decision on 03.08.2014:	Decision not to raise objections
Press release:	IP/14/901
Decision Text:	Letter to the Member State - authentic language en
Publication on 07.11.2014:	Official Journal: JOCE C/393/2014
Related court case(s):	T-612/14R T-614/14

Bail-in: the (very diverse) practices

- **Ireland – April 2015 (Permanent TSB):**
 - the bank is recapitalized by the state, with the existing shareholders diluted by >90%
 - **but** subordinated bondholders retain their claims in full

Operating and Financial Review

The key drivers of the movement in period to 30 June 2015 were as follows:

Asset pricing: Changes in asset pricing contributed to 20 basis point decrease in net interest margin, due primarily to the adverse impact on interest income from ECB tracker mortgages of two ECB Base Rate reductions of 10 basis points each, which took effect in June and September 2014.

Deposit Funding Costs: The on-going reduction in the cost of retail and corporate deposits, which reflected normalisation in deposit rates across the Irish market, contributed 16 basis points to net interest margin improvement.

ECB Funding Costs: The successive cuts in the ECB Base Rate from 25 basis points at the start of June 2014 to 5 basis points in September 2014 contributed 3 basis points to net interest margin through lower funding costs although this benefit was more than offset by reduced interest income on ECB tracker mortgages discussed above.

Wholesale funding costs: Reduced wholesale funding costs contributed 8 basis points to net interest margin improvement due to the repurchase of certain expensive medium term notes and the early repurchase of the contingent capital notes together with favourable rates achieved on new issuance of mortgage backed securities.

Key NIM Drivers: Average Balance Sheet and Interest Rate Data

The following table sets out the average balances of interest-earning assets and interest bearing liabilities for the periods ended 30 June 2015 and 2014. The table also outlines the amounts of interest income earned and interest expense (excluding ELG fees) incurred by the Group in the periods ended 30 June 2015 and 2014, as well as the average interest rates at which interest income was earned on such assets and interest expense was incurred on such liabilities. For the purpose of the table below, average balances are calculated from month end positions from 31 December 2014 to 30 June 2015. For the purpose of the table below, interest expense excludes ELG fees, as a result of which such amount and rates are lower than they would otherwise be.

	Half year ended 30 June 2015			Half year ended 30 June 2014		
	Average Balance	Interest	Average Yield/Rate	Average Balance	Interest	Average Yield/Rate
Interest-earning assets						
Loans and advances to banks	1,933	1	0.10%	1,351	2	0.30%
Loans and advances to customers	27,327	313	2.31%	28,999	345	2.40%
Debt securities and derivative assets	4,564	64	2.83%	5,729	106	3.73%
Total average interest-earning assets	33,824	378	2.25%	36,079	453	2.53%
Interest-bearing liabilities						
Customer accounts	20,242	142	1.41%	20,081	192	1.93%
Deposits by banks	9,150	39	0.86%	9,823	41	0.84%
Debt securities in issue and derivative liabilities	3,077	6	0.39%	4,364	30	1.38%
Subordinated liabilities	295	24	16.41%	375	32	17.41%
Total average interest-bearing liabilities	32,764	211	1.30%	34,643	295	1.72%

which includes assets classified as held for sale at 30 June 2015 of €1,000m)
 1 for the period ended 30 June 2014 (a 5.8% decrease) primarily as a result of a carrying value of €78m in March 2015 together with the derecognition of September 2014 and €302m from the sale of Springboard Mortgages Limited to customers decreased to 2.31% for the period ended 30 June 2015 from impact on interest income of ECB tracker mortgages as a result of maturity of 10 start of 2014 to 5 basis points from 10 September 2014.
 2 raised to €4,564m for the period ended 30 June 2015 from €3,729m for the 18 bond redemptions, disposal/maturity of corporate bonds and maturities of securities. The average interest rate on debt securities and derivative assets period ended 30 June 2014, principally as a result of maturity of government of NAMA bonds in the prior period.

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 - the bank is recapitalized by the state, with the existing shareholders diluted by >90%
 - **but** subordinated bondholders retain their claims in full
- 9 April 2015: EC declares that *"the restructuring aid granted by Ireland to Permanent TSB is in line with EU state aid rules"*



European Commission - Press release

State aid: Commission approves restructuring aid in favour of Irish bank Permanent TSB

Brussels, 09 April 2015

The European Commission has found that restructuring aid granted by Ireland to Permanent TSB (PTSB) is in line with EU state aid rules. The restructuring plan sets out the path for PTSB to become viable in the long-term without further state support, while ensuring that the bank and its owners contribute to the cost of restructuring and limiting the distortions of competition created by the aid.

Commissioner Margrethe Vestager, in charge of competition policy, said: "Today, we close the book on open restructuring cases of banks in Ireland by approving the state aid to Permanent TSB. The restructuring plan sets out a clear path for the bank's long-term viability without further state support. It also confirms the effectiveness of EU state aid rules, which allowed the Commission and Irish authorities to work together successfully to strengthen confidence in the Irish banking sector in order to return it to normality."

PTSB has received state support several times in the form of state guarantees since 2008. In July 2011, the Commission temporarily approved a recapitalisation of the bank by Ireland. Final approval of the aid was made subject to Ireland submitting an appropriate restructuring plan for the bank that needed to be approved under EU state aid rules.

The initial plan submitted by Ireland was subsequently adjusted and updated several times to account for changing market conditions, the results of the October 2014 comprehensive assessment of major European banks by the Single Supervisory Mechanism, and agree terms to ensure the bank's long-term viability.

The Commission's assessment concluded that the final version of the proposed restructuring plan sets out a credible strategy to make PTSB profitable. PTSB will operate as a smaller domestically focussed bank with an improved funding profile. It will increase its level of profitability notably by disposing of its low-yielding assets and increasing its net interest margins. Finally, PTSB will raise capital from private investors to achieve and maintain a strong capital buffer during the restructuring period. PTSB also has contingent capital instruments which can be converted into equity, if needed. These measures will enable PTSB to return to long-term viability without further state support.

PTSB has already implemented a series of restructuring measures, including de-leveraging, liability management exercises and cost reduction measures, which contribute to its return to viability and ensure that the aid is limited to the minimum necessary.

The restructuring plan includes a set of commitments that PTSB will respect during the restructuring period, i.e. until the end of 2018. In particular, PTSB will continue to de-leverage and reduce costs and will not be able to carry out acquisitions in this period. Moreover, PTSB will take certain actions to facilitate the market entry of competitors. In particular, PTSB will provide competitors with access to certain services, such as cash supply and distribution services, and access to market intelligence. It will also distribute advertising material on behalf of a competitor to its clients to promote customer switching.

The commitments will ensure that the competition distortions brought about by the aid are limited.

On this basis, the Commission has concluded that the aid measures are in line with the Commission's [Communications on state aid for banks during the crisis](#). This decision gives the final approval to aid measures granted to PTSB, including the recapitalisation measures which had previously been approved on a temporary basis pending the submission of a restructuring plan.

Background

Before the financial crisis, PTSB – then operating under the name Irish Life and Permanent - expanded rapidly with a focus on lending to the growing Irish property market and a strong reliance on wholesale funding. When the global financial crisis broke out, which hit the Irish economy and notably the Irish property market particularly hard, the vulnerability of PTSB's business model became clear and PTSB had to resort to state support. PTSB received on a standalone basis €2.7 billion of capital support that

Bail-in: the (very diverse) practices

- **Italy – July 2015
(Banca Romagna Cooperativa)**

- the bank is recapitalized by the state, with the existing shareholders diluted by >90%

- **but** subordinated bondholders, while formally wiped out, are immediately reimbursed in full by the national deposit guarantee insurance fund to "*preserve the reputation of the banking sector*"

In a [press release](#) assessing the case, Fitch Ratings said that the initial plan in the Italian case was to use funds from Italy's Deposit Guarantee Insurance Fund to make up for the capital shortfall. But **under the amended state aid, a preliminary bail-in of junior debt is mandatory. Therefore, junior bondholders have been bailed in. And yet they haven't.**

Despite the bail-in, in fact, no loss was suffered by retail bondholders as the Italian mutual sector's Institutional Guarantee Fund decided to reimburse them in full to "preserve the reputation of the sector". The Institutional Guarantee Fund is technically not public money (it's financed contributions from banks) but this still looks like a circuitous way to do what was initially planned, i.e. to avoid placing losses on private creditors. A few months ago a similar case (Carife - Cassa di Risparmio di Ferrara) also resulted in a "creative" solution being proposed, with the Italian deposit guarantee scheme Fondo interbancario di tutela dei depositi (FITD) possibly bailing out the bank and becoming the sole shareholder with the intention to sell it in the future.



Now you see it, now you don't
the first Italian case of bail-in
by Silvia Meier on 30th July 2015

On the 17th July, the Italian authorities began the liquidation of Banca Romagna Cooperativa (BRC), a small Italian mutual bank that had been in trouble since 2013. In the BRC resolution process, equity and junior debt have been bailed in. The case has passed largely unnoticed abroad, but this is effectively the first instance of a bail-in in Italy.

Percentage of bank bonds in total bond portfolios of Italian Households



Source: elaboration based on data from Central Bank of Italy

The need to carry out a preliminary bail in in bank resolution cases was established in the amended state aid rules, which constitute the transition framework to the new recovery and resolution regime that will be in force from 2016. The amended state aid framework prescribes that a bail in of junior debt must be carried out before any public money can be injected into the bank.


The rules will be toughened starting in January 2016, when the bail-in tool foreseen under the Bank Recovery and Resolution Directive (BRRD) will become operative. The spirit of this provision is to ensure that the private sector bears a share in the recapitalisation, restructuring or resolution of troubled banks and to avoid the burden being entirely shifted onto the public sector balance sheet, thus reinforcing the sovereign-banking vicious cycle that the creation of Banking Union is supposed to counteract.

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 - **but** subordinated bondholders, while formally wiped out, are immediately reimbursed in full by the national deposit guarantee insurance fund to "*preserve the reputation of the banking sector*"
- 18 July 2015: EC declares that the "*liquidation measure in favour of a small Italian bank Banca Romagna Cooperativa is compatible with EU state aid rules*"

 **European Commission - Statement**

State aid: Commission approves liquidation aid for Italian bank Banca Romagna Cooperativa

Brussels, 18 July 2015

The European Commission has decided that an Italian liquidation measure in favour of a small Italian cooperative bank "Banca Romagna Cooperativa – Credito Cooperativo Romagna Centro e Macerone" (Banca Romagna Cooperativa) is compatible with EU state aid rules. Banca Romagna Cooperativa had been under special administration since 2013, and was put into liquidation by the Italian authorities on 17 July 2015 under national insolvency law. Its assets and liabilities, including deposits, were transferred to Banca Sviluppo, which is part of the ICCREA Group. This will ensure that Banca Romagna Cooperativa's transferred activities return to long-term viability within the new entity. Under the measure notified by Italy, the Italian mandatory deposit guarantee scheme ("Fondo di Garanzia dei Deposanti del Credito Cooperativo") will cover the negative difference between the transferred assets and liabilities. Deposit guarantee schemes are mandatory under EU law to ensure that covered deposits are paid out when a bank is liquidated and exits the market, in which case there are no State aid issues. In this case, however, the deposit guarantee scheme's intervention constitutes State aid, because it is acting beyond this pay-out function, namely in a transfer of asset and liabilities, under the control of the Italian authorities. The Commission's assessment showed that this aid is compatible with EU state aid rules, in particular the Commission's [2013 Banking Communication](#). Equity and subordinated debt will not be transferred but will remain in the entity in liquidation, which means shareholders and junior bondholders will fully contribute reducing the need for State aid to the necessary minimum in line with burden sharing principles.

The non-confidential version of the decision will be made available under the case number SA.41924 in the State Aid Register on the competition website once any confidentiality issues have been resolved.

STATEMENT/15/5409

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Bail-in: the (very diverse) practices

- **Italy – November 2015**
(Banca Etruria, Banca Marche, Cassa di Risparmio di Ferrara, Cassa di Risparmio di Chieti)
 - each bank split into good and bad
 - shareholders and subordinated bondholders remain in the bad bank
 - state recapitalizes the good bank
 - depositors and senior bondholders transfer their claims to the good bank

Senior Bonds

According to the resolution plan, the four banks will split their bad assets, including non-performing loans, into a separate unit, with shareholders and subordinated-debt holders incurring some losses.

The plan rules out a bail-in, a mandatory resolution procedure from January, that would have hit senior bondholders.

BloombergBusiness



Italy's Bank Rescue to Cost Lenders Additional \$1.9 Billion

by Sonia Sirletti

November 23, 2015 – 7:16 PM CET

Updated on November 24, 2015 – 11:02 AM CET



- ▶ Additional one-off will hurt profitability, Bernardi says
- ▶ Banks may be asked to pay a further EU1.2b next year

Italy's banks will shoulder most of the burden of rescuing four of the nation's lenders, incurring 1.8 billion euros (\$1.9 billion) in extra costs for the year under a bailout plan that spares senior bondholders and depositors.

The rescue will add to pressure on an industry hobbled by weak economic growth and narrow lending margins. Profitability remains below the level before the 2008 financial crisis.

[...]

Senior Bonds

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 - each bank split into good and bad
 - shareholders and subordinated bondholders remain in the bad bank
 - state recapitalizes the good bank
 - depositors and senior bondholders transfer their claims to the good bank
- 22 November 2015: EC declares that it *"has approved the resolution plans of [these] four small Italian banks under EU state aid rules"*



European Commission - Press release

State aid: Commission approves resolution plans for four small Italian banks Banca Marche, Banca Etruria, Carife and Carichieti

Brussels, 22 November 2015

The European Commission has in separate decisions approved the resolution plans of four small Italian banks under EU state aid rules. The intervention by the Italian resolution fund will allow the orderly resolution of the banks while preserving financial stability.

The European Commission has found the resolution plans of Banca delle Marche, Banca Popolare dell'Etruria e del Lazio, Cassa di Risparmio di Ferrara and Cassa di Risparmio della Provincia di Chieti (combined market share of about 1% in Italy) to be in line with EU state aid rules. This follows the decision of the Bank of Italy to put the four banks, all of which had already been under special administration, into resolution in line with [EU rules on Bank Recovery and Resolution](#). In particular, the Commission found that Italy's plans to use the national resolution fund minimise the need for state aid and limits distortions of competition, while preserving financial stability. Customer deposits will remain fully protected.

EU Commissioner in charge of competition policy, Margrethe Vestager, said: *"The Commission's decisions enable the four banks' orderly exit in a way that minimises the use of public funds and any competition distortions resulting from the measures. It is critical that shareholders and junior creditors bear the costs and losses of the bank failures rather than taxpayers. I also welcome Italy's decision to use the bank resolution tools for the first time in Italy, allowing these failing banks to be managed while preserving financial stability."*

The Italian authorities proposed resolution plans for the banks that foresee the resolution of each bank and the immediate creation and capitalisation of four temporary bridge banks. All of the banks' assets and liabilities, except remaining equity and subordinated debt, will be transferred to these bridge banks. This transfer will stabilise the activities that were formerly carried out by the banks while also protecting depositors. The objective is to sell the bridge banks in an open and non-discriminatory process with the aim to maximise the sales price.

Italy's newly created resolution fund will provide €3.6 billion to the bridge banks, both to cover the negative difference between the transferred assets and liabilities and to capitalise the bridge banks. In line with European legislation, this will be financed by contributions from the Italian banking sector to the resolution fund. The measures also include a transfer of impaired assets from the bridge banks to a newly created Asset Management Vehicle. The resolution fund will guarantee this impaired asset measure that further strengthens the balance sheets of the bridge banks. The benefit of such a guarantee has been quantified as approximately €400 million in additional support from the resolution fund. These interventions from the resolution fund qualify as State aid under EU state aid rules.

The resolution measures have been designed and taken by the national resolution authority and the Commission assessed the plans under its rules on State aid to banks in the context of the financial crisis ([2013 Banking Communication](#)). It found that for these four banks, the resolution measures are in line with the overarching objective of preserving financial stability. Existing shareholders and subordinated debt holders contributed to the costs, reducing the need for the intervention by the resolution fund in line with burden-sharing principles. In order to limit distortions of competition, the bridge banks will only exist for a limited amount of a time and a prudent management policy will be implemented. Finally, the Commission will also assess under EU state aid rules the viability of the entities resulting from the sale of the bridge banks.

Background

The common [EU rules on state support in favour of banks in the context of the financial crisis](#) encourage the exit of non-viable players, while allowing for the exit process to take place in an orderly manner so as to preserve financial stability. Moreover, the rules ensure that the aid is limited to the minimum necessary and that the distortions of competition brought about by the subsidies, which give aided banks an advantage over their competitors, are mitigated.

On 16 November 2015 Italy transposed the Bank Recovery and Resolution Directive ([2014/59/EU](#)) into national legislation. The Bank Recovery and Resolution Directive rules equip national authorities with

Bail-in: the (very diverse) practices

- **Italy – November 2015 (Banca Etruria, Banca Marche, Cassa di Risparmio di Ferrara, Cassa di Risparmio di Chieti)**

12 Dec
2015

HOME › GOVERNMENT POLICIES

Consob to award €80 mn to victims of €3.6 bn bank bail-in on a case-by-case basis

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by *Marco Mobili*

TAG

Politics

Ecb banks Banca
d'Italia

funds

European
Commission

Italy's stock market watchdog **Consob** will determine damages on a case-by-case basis for the 10,500 subordinated bond holders who lost €788 million in a €3.6 billion bank bail-in provision that was rolled into Italy's 2016 budget law.

The fund is part of an amendment that Economy Minister **Pier Carlo Padoan** confirmed Friday would be presented to Prime Minister **Matteo Renzi's** government, which is expected to happen today.

The amendment establishes an initial compensation fund of €80 million, half guaranteed by the state and the other half by the banking sector.



Bail-in: the (very diverse) practices

- Italy – November 2015 (Banca Etruria, Banca Marche, Cassa di Risparmio di Ferrara, Cassa di Risparmio di Chieti)

15 Dec
2015

HOME › GOVERNMENT POLICIES

Government defines the arbitration procedure for retail investors involved in bank rescue

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by *Rossella Bocciarelli*

TAG

Debt

Bonds

Ecb banks Banca
d'Italia

Rescue fund

Among the amendments adopted by the *Chamber of Deputies* to define the future €100 million Solidarity Fund for investors in subordinated bonds of four regional banks that defaulted, the “case by case” arbitration lays out a roadmap and starts the path to clear up how the rules will work.



Bail-in: the (very diverse) practices

- **Greece – November 2015 (NBG, Piraeus Bank)**
 - NBG offers hybrid and subordinated bondholders a voluntary conversion into equity (at 50% and 80% of the claim, respectively)
 - Piraeus offers hybrid and subord. bondholders a choice between conversion into equity (at 50% and 80% of the claim, respectively), or cash outpayment (at 9% of the claim for perpetual bonds and 43% for bonds with maturity)

The Exchange Offers are being made to strengthen the Offeror's capital base, which has been impacted by the impaired macro-economic conditions recently experienced in the Hellenic Republic that are affecting all Greek financial institutions. In addition, the Exchange Offers in relation to the 2016 Securities and the Perpetual Securities reflect the fact that, if State aid is required to meet any part of the additional capital requirements that may be imposed as a result of the Comprehensive Assessment currently being conducted by the Single Supervisory Mechanism (SSM) or otherwise, burden-sharing will need to be achieved to the maximum extent possible through contributions by holders of equity, hybrid capital and subordinated debt of the Offeror. The proceeds of the issuance of 2017 Securities and the 2016 Securities have been loaned (in the case of the 2016 Securities, on a subordinated basis) by Piraeus Group Finance PLC to the Offeror. The proceeds of the Perpetual Securities were used by Piraeus Group Capital Limited to subscribe for €200,000,000 Series A Floating Rate Subordinated Callable Notes due 2034 (XS0204416316) issued by Piraeus Group Finance PLC (the 2034 Securities). In turn, the proceeds of the 2034 Securities were loaned, on a subordinated basis, by Piraeus Group Finance PLC to the Offeror. Investors should refer to the section "Background to and rationale for the Exchange Offers and the Proposals" in the Exchange Offer Memorandum for further information before participating in the Exchange Offers.

Each Securityholder whose Existing Securities are accepted for exchange in the relevant Exchange Offer or mandatorily exchanged pursuant to the Mandatory Issuer Exchange (if any) will receive on the settlement of the relevant Exchange Offer, which (subject as provided in the Exchange Offer Memorandum) is expected to take place on 9 November 2015 (the Settlement Date), Non-Transferable Receipts which correspond to the aggregate nominal amount or liquidation preference, as the case may be, of the relevant Existing Securities accepted for exchange pursuant to the relevant Exchange Offer. The Non-Transferable Receipts represent the rights of the holders (the Receiptholders) to choose where permitted to do so, between three Options during the Exercise Period and to receive from the Offeror the Cash Consideration, the Share Consideration (or any combination of the foregoing) or (in the case of Non-Permitted Equityholders only) the Cash Resale Amount, as the case may be, due upon the exercise of such Options. The Cash Consideration, Share Consideration or (in the case of Non-Permitted Equityholders only) the Cash Resale Amount paid or delivered to the relevant Receiptholders, shall be paid or delivered by way of full and final settlement of the consideration payable by the Offeror in respect of the exchange of the Existing Securities offered for exchange by such Receiptholders and accepted by the Offeror or mandatorily exchanged pursuant to the Mandatory Issuer Exchange (if any).

Key definitions:

Cash Consideration means the sum of (without double-counting): (i) the nominal amount represented by the relevant Non-Transferable Receipts multiplied by the relevant Cash Price; (ii) an amount equal to the Existing Security Interest Amount (if any); and (iii) an amount equal to the relevant Accrued Interest (if any).

Cash Price means: (a) in respect of the 2017 Securities, 43 per cent.; (b) in respect of the 2016 Securities, 9 per cent.; and (c) in respect of the Perpetual Securities, 9 per cent.


Cash Resale Amount shall have the meaning ascribed to such term in the Exchange Offer Memorandum and shall (subject as further set out in the Exchange Offer Memorandum) be an amount which will represent the net proceeds of the sale of any Ordinary Shares to which a Non-Permitted Equityholder would otherwise have been entitled had it been able to elect to receive such Ordinary Shares and made such election.

Share Consideration means the amount of Ordinary Shares obtained by dividing (without double-counting): (i) the sum of (A) the nominal amount represented by the relevant Non-Transferable Receipts multiplied by

Cash Price means: (a) in respect of the 2017 Securities, 43 per cent.; (b) in respect of the 2016 Securities, 9 per cent.; and (c) in respect of the Perpetual Securities, 9 per cent.

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- 29 November 2015: EC declares that it "*has approved additional state aid of 2.72 bn € to Piraeus Bank under EU state aid rules*"



European Commission - Press release

State aid: Commission approves aid for Piraeus Bank on the basis of an amended restructuring plan

Brussels, 29 November 2015

In the context of the third economic adjustment programme for Greece, the European Commission has approved additional state aid of €2.72 billion to Greek Piraeus Bank under EU state aid rules, on the basis of an amended restructuring plan.

The Commission concluded that the measures already implemented as part of the bank's existing restructuring plan of July 2014, in addition to those envisaged in the amended plan, will enable Piraeus Bank to ensure lending to the Greek economy in line with EU state aid rules, in particular the 2013 Banking Communication, and the Bank Recovery and Resolution Directive.

Piraeus Bank is the largest lender to Greek companies and households. EU Commissioner in charge of competition policy, Margrethe Vestager, said: "I welcome that Piraeus Bank has covered a significant part of its capital needs from private investors. This is a sign of market confidence. The additional public support and further implementation of its restructuring plan should enable the bank to return to long-term viability and continue supporting the recovery of the Greek economy."

As part of the third economic adjustment programme, on 31 October 2015, the comprehensive assessment carried out by the European Central Bank's Single Supervisory Mechanism (SSM) to ensure that the four systemic Greek banks are adequately capitalised identified a capital shortfall of €4.93 billion for Piraeus Bank.

Piraeus Bank has succeeded in covering in total €1.94 billion of this large capital needs by private means (existing creditors, through voluntary exchange of their notes for new shares, and new investors through share capital increase). The SSM also approved additional capital actions of €271 million. This means that Piraeus Bank has raised sufficient capital from private investors to cover its asset quality review and baseline scenario capital needs under the SSM's comprehensive assessment. The level of private capital is a sign of market confidence in the restoration of the long-term viability of this bank. It also shows that contributions by junior and senior bondholders can significantly reduce the need for injections of taxpayer money to support banks, whilst preserving financial stability.

The remaining balance of the capital needs amounting to €2.72 billion (as identified in the SSM's comprehensive assessment's so-called stressed scenario) will be covered by additional state aid injected by the Hellenic Financial Stability Fund (HFSF). This will take the form of a combination of share capital and contingent convertible capital instruments. The funding will be provided by the European Stability Mechanism (ESM) in the framework of the economic adjustment programme agreed with Greece with €10 billion funding made available to cover potential capital needs of the banking sector.

On this basis, the Greek authorities proposed changes to Piraeus Bank's restructuring plan approved in July 2014 in addition to the extensive restructuring already implemented. These changes include a deepening of the bank's operational restructuring and some amendments of deadlines in response to the changes in the bank's macroeconomic situation, as well as a commitment to further dispose of non-core assets outside of Greece. The Commission took into account the fact that most of Piraeus Bank's difficulties did not come from excessive risk taking but from the uncertainty and the events that led to the agreement of the third economic adjustment programme for Greece in August. Therefore, it found the measures proposed in the revised restructuring plan are sufficient to limit distortions of competition as a result of the state aid and, in particular, requested no downsizing in the bank's core lending activities in Greece.

As part of its state aid decision, the Commission has also verified that the capital injection by the HFSF can be granted as a precautionary recapitalisation within the meaning of the Bank Recovery and Resolution Directive (BRRD). It concluded that all the conditions of the BRRD to grant the aid without having to put the bank into resolution were met.

Background

The Commission approved a restructuring plan for Piraeus Bank in July 2014. Despite positive signs

Slovenian bail-in: the harshest treatment so far

- **Slovenia – December 2013
(NLB, NKBM, Abanka, Probanka, Factor banka):**
 - all shareholders are wiped out without compensation
 - all subordinated bondholders are wiped out without compensation
- NLB, NKBM, and Abanka were, and still are, the **systemic banks in Slovenia**
- **The state was the majority shareholder** in NLB and NKBM, and indirectly in Abanka, and held a controlling stake in them throughout their existence, i.e. ever since Slovenia's independence in 1991

Slovenian bail-in: the harshest treatment so far

- **Slovenia – December 2013**
(NLB, NKBM, Abanka, Probanka, Factor banka):
 - all shareholders are wiped out without compensation
 - all subordinated bondholders are wiped out without compensation
- **The state also had a deposit** in all of them in December 2013 (1356 mn € in NLB, 822 mn € in Abanka, 361 mn € in NKBM), and the national Companies Act dictates in its Art. 498 that "*in bankruptcy procedure or compulsory settlement, a loan made by the majority owner **shall be considered to form assets of the company***"
- The national Banking Law did not override this article, and further stated in its Art. 318 that "**a bank cannot be subject to compulsory settlement**", meaning that compulsory write-down of its creditors claims was explicitly forbidden
- The prospectus of all these banks' subordinated bonds with maturity stated that "**risk of loss can only materialize in the case of the bank's bankruptcy**"

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 - all shareholders are wiped out without compensation
 - all subordinated bondholders are wiped out without compensation
- Several issues of subordinated bonds with maturity were offered over-the-counter, with bank clerks proposing them as an *"equally safe, yet more flexible alternative to deposits, as they can also be sold on the stock exchange if the need arises"*
- In the largest such issue by NLB, the 26th issue (NLB26), the handout explicitly stated that the **"risk of loss can only materialize in the case of the bank's bankruptcy"** ...

Prodaja podrejene obveznice NLB26

Kaj je obveznica?

- dolžniški vrednostni papir (imetnik obveznice ni lastnik izdajatelja)
- dolgoročna naložba
- izdajatelj se zaveže, da bo imetniku plačeval obresti in ob dospelju glavnico

Kaj pomeni podrejena obveznica?

- po lastnosti podobna navadni obveznici
- se vštevja v kapital izdajatelja (dodatni kapital I)
- terjatve imetnikov podrejenih obveznic so v primeru likvidacije ali stečaja pri pravici izplačila podrejene vsem terjatvam navadnih upnikov in upnikov podrejenega dolga, ki se vključuje v dodatni kapital II. Dokler je to ne bodo poplačane, imetnik podrejenih obveznic nima pravice terjati ali pridobiti kakršnegakoli zneska iz naslova podrejenih obveznic.
- **neplačilo glavnice in obresti mogoče samo v primeru stečaja**
- ni zavarovana, ni del sistema zajamčenih vlog niti ni vključena v jamstveno shemo Republike Slovenije

Osnovne značilnosti obveznic NLB26

Izdajatelj: NLB d.d.

Oblika obveznic: Nematerializirana, imenska oblika (obveznica vpisana na registrski račun imetnika v KDD)

Status: Obveznica ima lastnost podrejenega dolga za vključitev v dodatni kapital I v skladu z 20. členom sklepa Banke Slovenije o izračunu kapitala bank in hranilnic

Dospelje obveznic: Glavnica v celoti dospelje dne 17.5.2017 (ročnost 7 let)

Možnost predčasnega izplačila ob dospelju: Obveznice ne morejo biti predčasno unovčene na zahtevo imetnika, razen v primeru stečaja izdajatelja.

odpoklica obveznic pred dnevom dospelosti obveznic, razen v je za vključitev obveznosti po obveznicah v izračun dodatnega kapitala; ali obveznic zaradi spremembe predpisov ali njihove interpretacije obveznic zaradi spremembe predpisov ali njihove interpretacije izdajatelj preneha opravljati bančne storitve in ga prenehajo zavezovati določila predpisov o kapitalističnosti, ki veljajo za banke in hranilnice; ali (iii) kadar koli po 17.5.2015, če izdajatelj za to pridobi dovoljenje Banke Slovenije.

neplačilo glavnice in obresti mogoče samo v primeru stečaja

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- Several issues of subordinated bonds with maturity were offered over-the-counter, with bank clerks proposing them as an *"equally safe, yet more flexible alternative to deposits, as they can also be sold on the stock exchange if the need arises"*
- ... and the same statement was repeated in the Q&A document for the customers who asked for more information ...

NLB ¹⁰

- Ali se lahko podrejene obveznice zastavijo v zavarovanje dolga pri NLB d.d.?

Imetnik ne more zastaviti podrejenih obveznic v zavarovanje svojega dolga v NLB d.d.

- Ali lahko stranka za namene nakupa podrejenih obveznic prejme kredit ali jamstvo s strani NLB d.d.?

Ne. NLB d.d. ne sme kreditirati ali dajati jamstva vezana na nakup podrejenih obveznic NLB26.

- **Ali je možno neplačilo glavnice in obresti iz naslova podrejenih obveznic?**

Neplačilo (glavnice in obresti) iz naslova obveznic je mogoče samo v primeru stečaja banke.

- Ali so podrejene obveznice po izdaji prosto prenosljive?

Obveznice so po izdaji prosto prenosljive v skladu z določili Zakona o nematerializiranih vrednostnih papirjih ter drugih predpisov in pravil in navodil, ki urejajo poslovanje KDD ali jih sprejema KDD. Obveznice se prenašajo z vojsom prenosa lastništva v centralnem registru.

prevzemam kakšno tveganje?
so podrejene obveznice tvegan finančni instrument. edeča.

10 trgovanje z obveznicami
sznic na Ljubljanski borzi
ovora z vzdrževalcem likvidnosti (npr. finančnim
posrednikom)

Neplačilo (glavnice in obresti) iz naslova obveznic je mogoče samo v primeru stečaja banke.

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- ... and even for those who read the whole 80-page prospectus, the risk of loss was declared as limited to the case of NLB entering bankruptcy

1.	Izdajatelj:	Nova ljubljanska banka d. d., Ljubljana, Trig republike z, 1520 Ljubljana.
2.	Oblika obveznic:	Obveznice so izdane v obliki nematerializiranih imenskih vrednostnih papirjev v nominalnem znesku po 100,00 EUR, v skladu z Zakonom o nematerializiranih vrednostnih papirjih (Uradni list RS, št. 2/2007 – uradno prečiščeno besedilo, 6/2007, 5/82009, v teh pogojih: »ZNP«) in vpisane v centralnem registru vrednostnih papirjev (v teh pogojih imenovani: »centralni register«), ki ga vodi KDO – Centralna kreditna depozitna delniška družba (KDD) d.o.o., Trnovska cesta 48, SI-1000 Ljubljana, Slovenija (v teh pogojih imenovani: »KDD«) z vpisom na račune imetnikov pri KDO v skladu s priložili KDO.
3.	Imetnistvo in prenosljivost obveznic:	Izdajatelj si pridržuje pravico šteti vsako osebo, ki bo ob določenem času vpisana v centralni register kot imetnik določenega števila obveznic, za zakonitega imetnika taknega števila obveznic (v teh pogojih Obveznic vsaka takna oseba: »Imetnik«). Obveznice so po izdaji prosto prenosljive v skladu z določili ZNPV ter drugih predpisov in pravi in navodil, ki urejajo poslovanje KDO ali jih sprejema KDO. Obveznice se prenosijo z vpisom prenosa v centralnem registru. Kazen rjenna imetnika ni nihče upravičen uveljavljati pravic iz katerekoli obveznice. Ne glede na navedeno lahko terjatev za plačilo taknega denarnega zneska na podlagi obveznic uveljavlja le upravičenec do taknega plačila kot je opredeljen v točki 5. Upravičenec in Presečni dan za izplačilo obresti in glavnice).
4.	Status:	Obveznosti izdajatelja na podlagi obveznic imajo lastnosti podrejenega dolga za vključitev v dodatni kapital I v skladu z 210. členom sklepa Banke Slovenije z nazivom »Sklep o izračunu kapitala bank in hranilnic« (Uradni list RS, št. 125/2006 in 104/2007 – v nadaljevanju: »Sklep o izračunu kapitala«). Obveznice in vse terjatve imetnikov obveznic iz naslova obveznic so glede vrstnega reda poplačil podrejene vsem terjatvam vlagateljev in navadnih upnikov do izdajatelja ter vsem terjatvam imetnikov terjatev do izdajatelja na podlagi podrejenega dolga izdajatelja, ki se vključuje v dodatni kapital II v skladu s sklepom o izračunu kapitala (v nadaljevanju: »Instrumenti dodatnega kapitala II«). Obveznice ostane vse terjatve iz naslova obveznic so glede vrstnega reda poplačila kot drugih pravic iz teh obveznic enakovredne (gani parisi) med seboj, kakor tudi vsem ostalim terjatvam drugih upnikov izdajatelja, ki so po položaju glede vrstnega reda izplačili enakovredne terjatve iz naslova obveznic.

V primeru stečaja izdajatelja veljajo za terjatve iz naslova obveznic naslednja pravila glede vrstnega reda izplačil:

(i) podrejene so vsem terjatvam vlagateljev in navadnih upnikov do izdajatelja ter terjatvam vseh upnikov iz naslova instrumentov, ki se v skladu s Sklepom o izračunu kapitala vključujejo v dodatni kapital II;

V primeru stečaja izdajatelja veljajo za terjatve iz naslova obveznic naslednja pravila glede vrstnega reda izplačil:

(i) podrejene so vsem terjatvam vlagateljev in navadnih upnikov do izdajatelja ter terjatvam vseh upnikov iz naslova instrumentov, ki se v skladu s Sklepom o izračunu kapitala vključujejo v dodatni kapital II;

(ii) enakovredne so med seboj in s terjatvami, ki so v primeru stečaja izdajatelja namenjene za izplačilo v enakem vrstnem redu kot terjatve iz obveznic; in

(iii) pri izplačilu imajo prednost pred katerikoli zahtevki iz naslova delnic izdajatelja ali terjatvami na podlagi drugih instrumentov, ki so v primeru stečaja izdajatelja namenjene za izplačilo sele po poplačilu terjatev iz obveznic.

V primeru stečaja izdajatelja zato noben upnik terjatev iz naslova obveznic ne bo upravičen zahtevati, prejeti ali zadržati katerikoli zneska na podlagi ali iz naslova obveznic, dokler ne bodo poravnane vse zapadle terjatve upnikov, ki imajo prednost pred izplačili po obveznicah v skladu s temi Pogoji Obveznic. Imetnik nima pravice (in se s tem, da postane imetnik, tak pravici odpoveduje) do poboda, napravnega zahtevka, predzaga ali katerekoli podobne pravice, glede katerekoli obveznosti izdajatelja iz ali v zvezi z obveznicami.