

What the best intention of the world can do to consumers

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

Tadej Kotnik, Ph.D.

PanSlovenian Shareholders' Association, member of the Expert Council

Kristjan Verbič, M.Sc.

PanSlovenian Shareholders' Association, president

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 C: communications of the EU institutions, bodies and agencies
series L: EU legislation

Bail-in: the (very diverse) practices

| bank | country | state aid granted | shares | subordinated bonds |
|--|-------------|-------------------|-------------------|--|
| SNS Reaal | Netherlands | Feb. 2013 | wiped out | wiped out, but Jul. 2013 retail investors repaid 100% |
| Bank of Cyprus | Cyprus | Mar. 2013 | diluted > 90% | converted into shares |
| Bankia | Spain | Mar. 2013 | diluted > 90% | repaid 64% (hybrid bonds) / 87% (bonds w. maturity) |
| Banco Gallego | Spain | Mar. 2013 | diluted > 90% | repaid 61% (hybrid bonds) / 89% (bonds w. maturity) |
| Catalunya Banc | Spain | Mar. 2013 | diluted > 90% | repaid 60% (hybrid bonds) / 85% (bonds w. maturity) |
| NCG Banco | Spain | Mar. 2013 | diluted > 90% | repaid 60% (hybrid bonds) / 87% (bonds w. maturity) |
| Aug. 2013: EC Banking Communication published | | | | |
| Hypo Alpe Adria Grp | Austria | Sep. 2013 | nationalized 2009 | left intact |
| Monte Paschi Siena | Italy | Nov. 2013 | diluted > 90% | left intact |
| NLB | Slovenia | Dec. 2013 | wiped out | wiped out |
| NKBM | Slovenia | Dec. 2013 | wiped out | wiped out |
| Abanka | Slovenia | Dec. 2013 | wiped out | wiped out |
| Probanka | Slovenia | Dec. 2013 | wiped out | wiped out |
| Factor banka | Slovenia | Dec. 2013 | wiped out | wiped out |
| Jun. 2014: EU Banking Recovery and Resolution Directive enacted | | | | |
| Banca Tercas | Italy | Jun. 2014 | wiped out | repaid 100% by interbank fund (FITD) |
| Hypo Alpe Adria Grp | Austria | Aug. 2014 | nationalized 2009 | wiped out, but May 2016 offered 45% repayment |
| Banco Espírito Santo | Portugal | Aug. 2014 | wiped out | turned into bonds of the bad part of the bank |
| Banka Celje | Slovenia | Dec. 2014 | wiped out | wiped out |
| Permanent TSB | Ireland | Apr. 2015 | diluted > 90% | left intact |
| Banca Romagna Coop | Italy | Jul. 2015 | wiped out | repaid 100% by the coop-interbank fund (FGD) |
| Banca Etruria | Italy | Nov. 2015 | wiped out | wiped out, but May 2016 offered 80% repayment |
| Banca Marche | Italy | Nov. 2015 | wiped out | (expropriated holders with annual income <35000 € or movable property <100000 €) or arbitration with up to 100% repayment (all expropriated holders) |
| CaRiChieti | Italy | Nov. 2015 | wiped out | |
| CaRiFerrara | Italy | Nov. 2015 | wiped out | up to 100% repayment (all expropriated holders) |
| Natl Bank of Greece | Greece | Dec. 2015 | diluted > 90% | offered a choice: converted into shares or repaid |
| Piraeus Bank | Greece | Dec. 2015 | diluted > 90% | 9% (hybrid bonds) / 43% (bonds with maturity) |

Bail-in: the (very diverse) practices

- **Netherlands – February 2013 (SNS Reaal):**
 - shareholders and subordinated bondholders are **wiped out without compensation ...**
- ... but in **July 2013**, 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) ...**
- ... and **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 is titled "COMPETITION" and includes a navigation menu with "HOME", "Policy areas", "Sectors", "Who is in charge?", "Competition and you", and "Cases". A link for "What's new? | Manuals | Contact" is also visible.

| 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
 - 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 ...
- ... and 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 at the bottom right. 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, Banco 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, Banco 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

The screenshot shows the European Commission's website for Competition Cases. The page title is "SA.36500 Recapitalisation and Restructuring of Banco Gallego S.A.". The decision is dated 2013/N. The primary objective is "Remedy for a serious disturbance in the economy" under Art. 107(3)(b) TFEU. The decision is a "Decision not to raise objections" (IP/13/745) published on 21.03.2014. The related cases are SA.33734 and the official journal reference is JOCE C/83/2014.

| 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)

- 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 table of details.

| | |
|------------------------------------|--|
| 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%
 - 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 Monti dei Paschi di Siena

The European Commission has concluded that the public support granted for the restructuring of the Italian bank Banca Monti 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.

Spokespersons' Service des Porte-paroles

IP/13/1174

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



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

EDITION: U.S.

SIGN IN | REGISTER

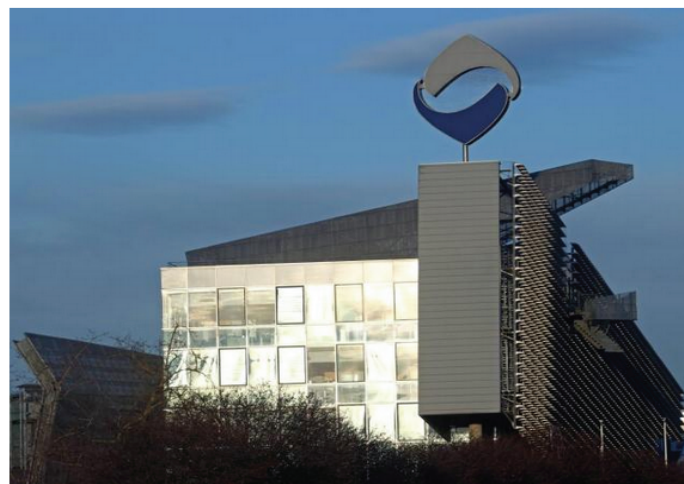


Search Reuters

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



On climate frontlines, Pacific islanders consider moving

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

Desperately seeking strategy, utilities lost in low-carbon world

[» Live Coverage](#) | [» More Stories](#)

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!*"

- and in **May 2016**, Austrian gov't offers subordinated bondholders **45% compensation**

Markets | Wed May 18, 2016 7:24am EDT

Heta creditors accept revised Austria offer

BY CHRIS SPINK

LONDON, May 18 (IFR) - Austria is hopeful it can avoid damaging legal battles with creditors of failed Hypo Alpe Adria bank after a significant proportion of debt investors pledged to accept a revised offer to swap their instruments for new paper guaranteed by the Federal government.

"If the offer is accepted we get legal certainty and we can avoid legal proceedings," said finance minister Hans Joerg Schelling.

An earlier offer in March failed after a group of creditors agreed not to accept any discounted offer for their 5.5bn of debt in Hypo Alpe Adria's successor institution, Heta Asset Resolution. The original instruments had been guaranteed by Hypo Alpe Adria's owner, the state of Carinthia.

However, Carinthia had used new Austrian financial laws to put Heta's 11bn debt into moratorium last year ahead of a plan to start winding down the failed bank and return any proceeds to creditors. The Austrian financial regulator has since said recoveries would only be 46 cents in the euro for senior debt.

Carinthia's initial offer was at 75 cents in the euro for senior instruments and 30 cents in the euro for subordinated debt. That was then sweetened to around 82 cents in the euro for the seniors by offering them additional 18-year zero coupon notes.

Over the last month the two sides have been discussing the terms of a revised offer on a confidential basis. Schelling said on Wednesday morning that a deal had been reached.

The original cash offer remains unchanged but now, under an alternative deal, all the senior bonds can be exchanged on a par basis for 13.5-year zero coupon bonds, guaranteed by the Federal government. That equates to roughly 90 cents in the euro.

The subordinated bonds can be swapped on a 1-for-2 basis, giving them 45 cents in the euro, or swapped at par for 54-year zero coupon bonds. The 13.5-year bonds will be supported by a 180-day stabilisation period after they have been swapped.

The subordinated bonds can be swapped on a 1-for-2 basis, giving them 45 cents in the euro, or swapped at par for 54-year zero coupon bonds. The 13.5-year bonds will be supported by a 180-day stabilisation period after they have been swapped.

Bail-in: the (very diverse) practices

- **Portugal – August 2014 (Banco Espirito Santo):**
 - the bank is split into a good bank (named Novo Banco) and a bad bank (retaining the name Espirito 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




SA.39250 Monitoring of Banco Espirito 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
- 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*"
- 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.

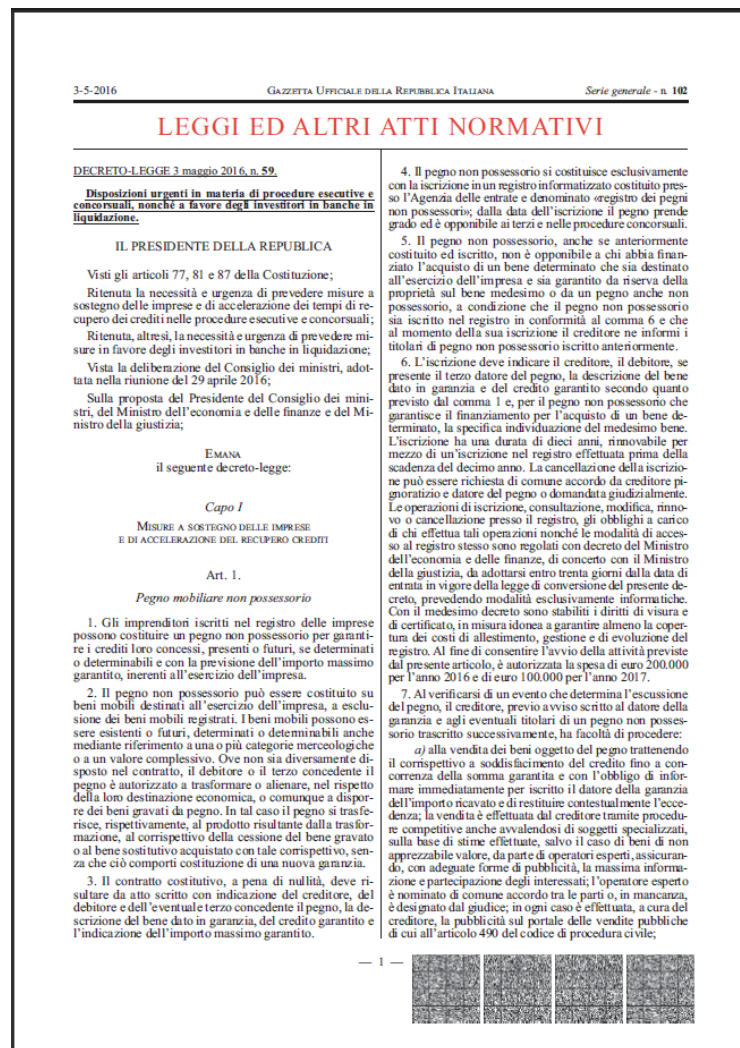
STATEMENT/15/5409

Press contacts
[Ricardo CARDOSO](#) (+32 2 298 01 00)
[Yizhou REN](#) (+32 2 299 48 89)

General public inquiries:
[Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)


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
 - all good assets moved to good bank
 - state recapitalizes the good bank
 - shareholders and subordinated bondholders **are left in the bad bank, effectively losing entire investment ...**
- but in **April 2016**, the Italian gov't enacts the *Law-Decree #59*, offering the banks' subordinated bondholders **80% compensation** (for those with annual income <35 k€ or movable property <100 k€) **or arbitration with possibility of full compensation** (for all)



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)**
- 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**"

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
- 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"** ...

neplačilo glavnice in obresti mogoče samo v primeru stečaja

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 zavarjenih 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 registrični 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 dospe 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 prenosa opravljanja 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.

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
- 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 ⁷⁰

- 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.

to trgovanje z obveznicami
snc na Ljubljanski borzi
ovora z vzdrževalcem likvidnosti (npr. finančnim
posrednikom)

- **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.

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
- 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 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 2, 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: »ZNPV«) in vpisane v centralnem registru vrednostnih papirjev (v teh pogojih imenovani: »centralni register«), ki ga vodi KDO – Centralna kreditna depozitna družba delniška družba (KDO d.d.), Trnovska cesta 48, SI-1000 Ljubljana, Slovenija (v teh pogojih imenovani: »KDO«) z vpisom na račune imetnikov pri KDO v skladu s pravihi KDO. |
| 3. | Imetništvo 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 navodih, 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 terjatve za plačilo taknega denarnega zneska na podlagi obveznic uveljavlja le upravičenec do taknega plačila (ki 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 terjatve 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 (gati 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:

- 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;
- 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
- pri izplačilu imajo prednost pred katerikoli zahtevki iz naslova delnic izdajatelja ali terjatvam na podlagi drugih instrumentov, ki so v primeru stečaja izdajatelja namenjene za izplačilo sele po poplačilu terjatve iz obveznic.

V primeru stečaja izdajatelja zato noben upnik terjatve iz naslova obveznic ne bo upravičen zahtevati, prejeti ali zadržati kakršnegakoli 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, pridržanja ali katerekoli podobne pravice, glede katerekoli obveznosti izdajatelja iz ali v zvezi z obveznicami.

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

- 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;