



Brussels, 15.7.2010
C(2010) 4963 final

Subject: State aid N 546/2009 – Restructuring of Bank of Ireland

Sir,

1 PROCEDURE

- (1) By decision of 26 March 2009¹ (State Aid case N 149/2009), the Commission authorised a capital injection of EUR 3.5 billion into Bank of Ireland Group (hereafter also "BOI" or "the bank"), on the basis of several commitments including the submission of a restructuring plan within six months following the recapitalisation.
- (2) By letter of 30 September 2009 the Irish authorities submitted a restructuring plan for BOI.
- (3) The Commission requested information with regard to the restructuring plan on 28 September 2009, 28 October 2009, 6 November 2009, 18 December 2009, 13 and 27 January 2010, 2, 8, 24 and 25 February 2010, 23 March 2010, 7, 8, 9, 10 and 14 April 2010, 21 May 2010 and 3 June 2010. Those requests for information were answered by the Irish authorities on 5, 19, 24, 26 November 2009, 1, 9, 10, 11 December 2009, 8, 9, 14, 15, 26 and 27 January 2010, 3 and 17 February 2010, 23 and 29 March 2010, 7, 8, 9, 10, 14, 15, 28, 29 and 30 April 2010, 27 and 28 May 2010 and 11 June 2010. Further information regarding commitments on the State measures were submitted on 21, 22 and 30 June 2010, 2 and 5 July 2010.
- (4) In addition, the Commission services met with the Irish authorities on 24 February 2010 and 31 March 2010.

2 DESCRIPTION OF THE MEASURE

2.1 The beneficiary

- (5) BOI is the oldest Irish bank, having been established in 1783. It is currently one of the two largest financial services groups in Ireland with a total balance sheet of EUR

¹ *Commission Decision in Case N149/2009, Recapitalisation of Bank of Ireland, OJ C 234, 29.09.2009, p. 4.*

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ANNEX II

Ireland's Commitment to Enhance Further Competition in the Irish Banking Sector

Ireland committed to undertake a package of alternative measures in order to restore the competition in the Irish banking market by facilitating entry and expansion of competitors and enhancing the consumer protection in the financial sector. In particular, Ireland committed to carry out specific measures in order to enhance:

- (a) Customer mobility and protection (provision of information; transparency to facilitate consumer decision making; financial inclusion);
- (b) Entry of competitors (electronic banking, SEPA migration, quality and availability of credit history information and reporting by banks);
- (c) Corporate governance.

a) Customer mobility and protection

a.1) Customer mobility

Specific Commitments	Implementation Date	Lead Responsibility
a. The IBF switching codes for personal and business customers will be placed on a statutory footing immediately, and it will be accompanied by an information campaign.	Q3 2010	Financial Regulator (FR). Information campaign will be done by National Competition Authority (NCA) and Irish Banking Federation (IBF)
b. A review of the provisions contained in the switching codes with a view to making any necessary enhancements will be carried out as part of the Financial Regulator's review of the Consumer Protection Code, which is expected to conclude in Q2 2011	By end-Q2 2011	FR
c. The Competition Authority will consult with the National Consumer Agency and the Financial Regulator on whether competition in the retail banking market has sufficiently improved and the interests of consumers are adequately safeguarded to support its recommendation that existing price regulation of fees and charges under Section 149 of the Consumer Credit Act 1995 be removed. If the assessment of the Competition Authority is such that the competitive environment does not support its abolition, Section 149 of the Consumer Credit Act, 1995 will not be applied to new entrants in their first 3 years of commencing business in Ireland.	by the end of 2010	Department of Finance (DoF)
d. The Government will implement the following measures unless the review of the Consumer Protection Code -by the FR shows that they are not beneficial for the consumers <ul style="list-style-type: none"> iv. A prohibition on bundling unless it can be demonstrated that there is a cost saving for consumers v. Consumers will be informed on the overall cost of the bundle and the cost of each item separately as well as the cost of exiting the bundle vi. Where one or more financial products are sold in a bundle customers will be able to switch one or 	By end-Q2 2011	FR

<p>b. Improvements in annual statements and notifications of changes in fees and interest charges⁴⁷:-</p> <p>i. Banks shall provide customers who have current accounts with separate annual statements of total fees/interest paid.</p> <p>ii. Banks shall provide deposit account customers with separate annual statements of interest earned.</p> <p>iii. Banks when informing customers on changes in interest rates and charges shall include details of the old rate / charge, the new rate / charge and the difference in monetary terms (in the case of rate changes for loans and mortgages)⁴⁸.</p>	<p>Will be implemented as part of the review of the Consumer Code (Q2 2011)</p>	<p>FR</p>
<p>c. Improved access to account histories for customers:-</p> <p>iii. Banks will provide SMEs 3 years of current account history without charge</p> <p>iv. Banks will provide personal customers with 12 months of current account statements without charge.</p>	<p>Will be implemented as part of the review of the Consumer Code (Q2 2011)</p>	<p>FR</p>

a.4) Financial inclusion

Proposed Measure	Implementation Date	Lead Responsibility
<p>a. A review will be undertaken of the options available to achieve financial inclusion in Ireland, drawing on best practice international approaches to resolving this issue. The objective of the study will be to identify recommended actions to achieve a substantial reduction in financial exclusion over a 3-5 year period</p>	<p>By end-2010 at the latest</p>	<p>DoF</p>
<p>b. The domestic banking sector will be required to support and promote the availability of a basic bank account in the context of the implementation of the strategy agreed by Government for addressing financial exclusion.</p>	<p>By end-2010 at the latest</p>	<p>DoF</p>

b) Entry of competitors

b.1) Electronic banking

Proposed Measure	Implementation Date	Lead Responsibility
<p>a. Changes to the Consumer Credit Act</p> <p>iii. Section 45 will be amended to recognise electronic communications relating to credit agreements in the same way as written, i.e., hard copy paper communications, are currently recognised</p>	<p>end-2010 at the latest</p>	<p>DoF</p>

⁴⁷ The Consumer Protection Code currently contains a number of provisions relevant to this area, however, these proposals represent refinements which will improve transparency for consumers.

⁴⁸ This will not apply in the case of credit agreements falling within the scope of the EC (Consumer Credit Agreements) Regulations 2010 under which creditors are required to provide information concerning changes in the borrowing rate as set out in regulation 14 of those Regulations.

iv. Sections 30-35 will be amended (as it interacts with the Electronic Commerce Act 2000) to no longer prohibit the use of electronic signatures with respect to credit agreements	end-2010 at the latest	DoF
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b.2) SEPA migration

Proposed Measure	Implementation Date	Lead Responsibility
a. A SEPA Migration Plan will be prepared for the public sector and implemented, covering all the transactions involved in the public sector.	Q4 2010 at the latest (preparation of the plan) Q3 2011 at the latest (implementation of the plan)	DoF

b.3) Improved quality and availability of credit history information and reporting by banks

Proposed Measure	Implementation Date	Lead Responsibility
<p>a. Institutional arrangements for the provision of information on credit histories will be restructured to conform to best international practice for the provision of high quality credit history information. This will be aligned with the proposal on credit registers set out in section 6.3 of the Financial Regulator’s strategy paper “Banking Supervision: Our New Approach” published on 21 June 2010.</p> <p>iii. As a first step a review will be carried out to assess, among other things the rules and compliance with the rules governing the availability and type of information held by the Irish Credit Bureau, the ownership structure of the Irish Credit Bureau, and regulatory models for credit histories in other countries. The Financial Regulator will undertake an assessment on the quality and availability of the credit history information.</p> <p>iv. The recommendations of the review will be implemented.</p> <p>Implementation will be aligned with bank specific proposals outlined in the restructuring plans.</p>	<p>Q2 2011</p> <p>Q4 2011 at the latest</p>	<p>DoF, FR</p> <p>DoF</p>
b. Banks will be required – when making reports to credit bureaux - to distinguish between those customers who engage positively with lenders in relation to arrears and especially those with whom the institution has agreed a re-scheduled arrangement to allow new entrants to assess credit risk on a more granular level	Q4 2010	FR/DoF

c) Corporate governance

Strengthening corporate governance in the financial sector

Proposed Measure	Implementation Date	Lead Responsibility
<p>a. The Financial Regulator's recommendations for the reform of corporate governance arrangements for boards of credit institutions as set out in Consultation Paper CP 41 on Corporate Governance Requirements for Credit Institutions and Insurance Undertakings will be implemented⁴⁹.</p>	Q4 2010	FR
<p>In particular.</p> <p>iv. Credit institutions with a significant retail customer presence in Ireland will be required to ensure that no director becomes or remains a director of any other credit institution or insurance undertaking except where such entities are within their group. This commitment will be adopted at this time in the first instance for the institutions participating in the Eligible Liabilities Guarantee Scheme which are in scope through the issuance of a direction by the Minister under paragraph 22 of the ELG Scheme (referencing para. 34 of the CIFS Scheme). The commitment will be implemented for all credit institutions with a substantial retail customer presence in Ireland through appropriate legislative or regulatory change by end-2010.</p> <p>v. Credit institutions will be strictly regulated in any lending to companies of which the credit institution's own directors are also directors. Such companies in which credit institutions' directors hold cross-directorships shall be expressly designated as related party lending and will be made subject to the same rigorous controls as are proposed in the case of lending to directors' family members or companies owned by them. Legislation or regulatory code will give force of law to this direction to credit institutions."</p>	Q4 2010	FR/ DoF
<p>vi. Consistent with Government objectives for promoting competition, strengthening financial regulation and promoting the interests of consumers, the empowerment of the Irish Competition Authority, Financial Regulator the National Consumer Agency, with respect to the financial sector, shall be reinforced (e.g envisaging additional financial and human resources or the enhancement of the power of sanctioning).</p>	Q4 2010	FR/ DoF

d) Reporting and implementation

⁴⁹ See <http://www.financialregulator.ie/consultation-papers/Documents/CP41%20-%20Corporate%20Governance%20Requirements/Corporate%20Gov%20Requirements.pdf>.

Ireland committed to provide the competent bodies with adequate resources to implement each measure and to enhance the empowerment (e.g envisaging additional financial and human resources or the enhancement of the power of sanctioning).

No requirement for additional legal / regulatory / sanctioning powers or organisational resources has been identified by the bodies assigned responsibility to ensure implementation of the above measures. If any requirement for either additional organizational (i.e. financial and human) resources or the provision of additional legal or regulatory powers, including the enhancement of sanctioning powers, arises for any of the competent bodies during the implementation process these requirements will be addressed by the appropriate national authority to ensure the implementation of each of the above commitments.

A steering group comprising senior representatives of the Department of Finance, the Financial Regulator, the Competition Authority and the National Consumer Agency will review and report on progress in implementing the above commitments on an annual basis.