[State aid: Commission opens in-depth investigation on Slovenia's new proposed commitments for Nova Ljubljanska Banka]

The partial sale of Slovenia's shares in NLB is a key commitment to ensure NLB's long-term viability, on the basis of which the Commission was able to approve significant State aid of up to €2.32 billion to NLB in December 2013. In May 2017, Slovenia requested a gradual sale of its shares in NLB in two tranches, which the Commission approved. However, after putting the sale of NLB on hold in June 2017, Slovenia did not complete the sale of a first tranche of its shares in NLB before the end of 2017, nor did Slovenia nominate a trustee to comply with the alternative commitment of divesting its Balkan subsidiaries. Since Slovenia failed to comply with its commitments, the aid granted to NLB in 2013 has not been lawfully implemented. Furthermore, the Commission has doubts that Slovenia's proposed alternative measures of December 2017 can be considered equivalent to Slovenia's original commitment.

For these reasons, the Commission has today opened an in-depth investigation. This gives Slovenian authorities and other interested third parties the opportunity to submit comments on the Commission's preliminary views, without prejudging its outcome.

Commissioner Margrethe **Vestager**, in charge of competition policy, said: "*Slovenia has proposed changes to its commitment to sell 75% of its shares in NLB and has missed a deadline under its existing commitment. It is the responsibility of Member States to comply with their commitments. At this stage, we have doubts that Slovenia's new proposal is equivalent to its original commitment, which is why we have opened an in-depth investigation. We have to make sure that NLB, which has received significant State aid, is viable in the long-run, also for Slovenian taxpayers. And we have to ensure equal treatment of all EU countries. We will continue to work constructively with the Slovenian authorities over the course of this investigation.*"

The new proposed commitments

On 21 December 2017, the Slovenian authorities formally notified the Commission of a new commitment package to replace its existing commitment on the sale of 75% of its shares in NLB. This proposal foresees a significant extension of the sales deadline. It also proposes the appointment of an independent trustee that would exercise the State's shareholder rights until the sale has been completed. Finally, Slovenia proposes that all other existing commitments cease to apply as of 31 December 2017.

The Commission can only accept modifications to existing commitments by Member States and aided banks that were given to obtain approval for restructuring aid (such as the one leading to the 2013 Commission decision), if the new commitments can be considered equivalent to those originally provided. In particular, the new measures have to ensure the viability of NLB to the same extent as the original commitments and address potential additional competition distortions.

At this stage, the Commission has doubts whether the new Slovenian proposal can be considered equivalent to Slovenia's original commitment, for the following reasons:

- The Commission has doubts whether the appointment of an independent trustee can ensure NLB's viability to the same extent as a change in ownership. A change in ownership would allow the bank – at all its levels – to operate solely for commercial objectives, without there being competing short-term or long-term political objectives. In this context, it is important to recall that corporate governance issues were a main factor leading to NLB's past financial difficulty and the need for State aid in the first place. In this context, previous corporate governance measures proved to be rather ineffective. Furthermore, Slovenia was not able to appoint a trustee on 1 January 2018, notably because the selection process is time consuming and will inevitably require regulatory approvals. This means that there will be a time gap during which the bank will neither be partially sold on time as Slovenia had committed to, nor controlled by a trustee.
- The Commission's preliminary assessment indicates that a further delay of the sale unduly prolongs NLB's restructuring period. To ensure compliance with EU State aid rules and equal treatment of all EU countries, the restructuring period to ensure a bank's viability should not be longer than necessary.
- The Commission also considers at this stage that, since the sale of NLB is delayed further, certain other commitments – and in particular those linked to the restructuring period – should be prolonged as well. One example is a commitment to only grant loans if the bank can expect a minimum return on equity on those loans. This would help ensure viability and address potential additional competition distortions as a result of the delay.
- Finally, the Commission also has doubts whether the new proposal for State aid commitments sufficiently compensates for this delay in the restructuring process and will investigate further whether more behavioural and structural measures are required, to ensure the new commitments can be considered equivalent to those originally provided.

The opening of an in-depth investigation gives Slovenian authorities and other interested third parties the opportunity to submit comments on the Commission's preliminary views. This opening of an investigation does not prejudge its outcome. The Commission will carefully review the responses received before taking a final decision.

Background

NLB is the largest Slovenian banking group and had a balance sheet of €12 billion at the end of September 2017. It has received three State recapitalisations, one of €250 million in March 2011, one of €383 million in July 2012. Furthermore, NLB benefitted from a transfer of impaired assets to a State-owned bad bank with an implied aid element of €130 million. In December 2013, the Commission approved under EU State aid rules €2.32 billion in State aid to NLB – equivalent to 20% of the bank’s risk weighted assets as on December 2012.

The Commission took its 2013 decision on the basis of the bank’s restructuring plan and associated commitments. As a crucial part of this restructuring plan, Slovenia committed to sell a 75%-1 share of NLB by the end of 2017, in order to ensure that the State would no longer influence NLB’s day-to-day business. In May 2017, the Commission accepted a request from Slovenia for a more gradual sale, whereby Slovenia committed to sell (at least) 50% of its shares by the end of 2017, and to sell the remainder of (at most) 25%-1 by the end of 2018.

More information will be available on the Commission’s competition website, in the public case register under the case number SA.33229.