STATE AIDS (BANKING): THE BGB CASE

Subject: State aids

Industry: Banking

Parties: Bankgesellschaft Berlin AG

Source: Commission Statement IP/01/1072, dated 25 July 2001

(Note. This decision is a return to the bad old days when governments bailed out banks which had made serious commercial errors in their investment policy, particularly in the real property sector. There were several cases of this kind in the wake of the recession at the beginning of the 1990s, when there was at least some colour to the argument that exceptional economic circumstances had created an unforeseeable decline in the real property market. As the Commission points out, aid to a bank is justified "in exceptional cases"; but the report below does not spell out, at any rate in convincing detail, what the exceptional circumstances were here. On another page of this issue, the Commission points out that state aids in the service sectors are still unacceptably high; the present case will add to the figure for the current survey period.)

The Commission has approved an application by the German Government in respect of rescue aid of some €2 billion to be granted by the Province of Berlin to Bankgesellschaft Berlin AG (BGB), with a view to enabling it to restore in the short term its pre-crisis solvency ratio of 9.7%. The aid had become necessary following substantial losses by BGB above all in the real estate sector, which caused its equity capital to fall below the statutory solvency ratio of 8%; otherwise, the Federal Banking Supervisory Office would have had to intervene. Approval for the rescue aid has been given after the Federal Banking Supervisory Office had made its position clear regarding the amount of capital needed to keep BGB in business in the short term and after the Federal Government had undertaken to present to the Commission within six months a comprehensive restructuring plan for BGB.

BGB is a listed company active internationally whose main shareholders are the Province of Berlin (56.6%), Norddeutsche Landesbank (20%) and the Parion insurance group (7.5%). It came into existence in 1994 as a result of the merger of several credit institutions owned at the time by the Province of Berlin and was the tenth-largest credit institution in Germany with a balance-sheet total of around €200 billion and a workforce of some 17,000. The BGB group includes among others the Landesbank Berlin, the Berlin-Hannoversche Hypothekenbank AG (BerlinHyp), Berliner Sparkasse and Berliner Bank.

At the end of June the Federal Government formally notified the Commission of the rescue aid, which comprises a memorandum of understanding and the planned capital injection of some €2 billion, to be decided on by the general meeting at the end of August.

The memorandum of understanding represents a commitment vis-à-vis the Federal Banking Supervisory Office and ranks, therefore, as a guarantee. The fruitless search for other investors shows that the action of the Province of Berlin does not correspond to that of a market-economy investor.

Particularly in view of the urgent nature of the decision, the Commission, in assessing the need for a capital injection, has relied crucially on the position adopted by the Federal Banking Supervisory Office vis-à-vis the Commission, in which it is clearly stated that there is no alternative to a capital injection to keep BGB in business until the restructuring plan has been vetted. As regards the amount of the capital injection, it is stated that the pre-crisis solvency ratio of 9.7% must be restored in order to rectify the loss of confidence in the markets and to guarantee BGB's survival. On account of the clear position taken by the Federal Banking Supervisory Office, the Commission has approved the amount needed to restore the pre-crisis solvency ratio. The amount is provisionally put at some €2 billion. In the banking sector, capital injections are admissible as rescue aid in exceptional cases.

Approval of the rescue aid is based on the Federal Government's undertaking to present to the Commission within six months a comprehensive restructuring plan for BGB. The approval is, in principle, valid only for that six-month period. Provided that the Federal Government does present a comprehensive restructuring plan within six months, this period will be extended until the Commission's definitive decision in the matter.

Once it has received the restructuring plan, the Commission will vet it and, if necessary, initiate infringement proceedings. As part of such proceedings, the Commission will examine the amount of aid necessary to restore long-term viability and will decide which measures are necessary to offset as far as possible any distortion of competition. In the case of a negative decision, the Commission may order BGB to repay (some of) the capital to the provincial authorities. ■

Südzucker / St Louis Sucre

The Commission has decided to initiate a detailed second-stage investigation into the planned merger between Südzucker AG, Mannheim/Ochsenfurt, Germany, and France's Saint Louis Sucre SA. Current information suggests that there are serious concerns, particularly in relation to Südzucker's strong position in all sectors of the sugar market in Belgium and southern Germany. The company operates mainly in southern and East Germany, Belgium, Austria and Eastern Europe. St Louis Sucre operates mainly in France and Eastern Europe. (Source: Commission Statement IP/01/1223, dated 23 August 2001)