Commission Decision (EU) 2018/1840 of 10 August 2018 on the State aid SA.33229 (2018/N-4) (ex 2017/C-3) — Slovenia — Amendment of the restructuring commitments of Nova Ljubljanska Banka d.d. (notified under document C(2018) 5537) (Only the English version is authentic) (Text with EEA relevance)

COMMISSION DECISION (EU) 2018/1840

of 10 August 2018

on the State aid SA.33229 (2018/N-4) (ex 2017/C-3) — Slovenia — Amendment of the restructuring commitments of Nova Ljubljanska Banka d.d.

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union ('TFEU'), and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provision(s)[1] cited above and having regard to their comments,

Whereas:

1. **PROCEDURE**

(1) By decision of 7 March 2011 ('the first rescue Decision')[2], the Commission authorised for a period of six months, based on the submission of a restructuring plan, the EUR 250 million State recapitalisation of Nova Ljubljanska Banka d.d. ('NLB') which Slovenia had notified to the Commission on 14 January 2011.

(2) By Decision of 2 July 2012[3] ('the second rescue and opening Decision'), the Commission approved a second rescue recapitalisation of NLB, while at the same time opening an in-depth investigation based on concerns in relation to the restructuring plan submitted. The Commission doubted whether the plan allowed NLB to return to viability, while it also deemed the plan insufficient in terms of burden-sharing and in relation to the adequacy of measures to address undue distortions in competition.

(3) By Decision 2014/535/EU ('the 2013 Decision')[4], the Commission approved State aid to NLB on the basis of an amended restructuring plan and a list of commitments submitted by Slovenia, one of which required Slovenia to sell a 75 % minus one share ('75 % - 1') stake in NLB by 31 December 2017 or, alternatively, to have NLB divest six foreign Balkan subsidiaries.

Changes to legislation: *There are currently no known outstanding effects for the Commission Decision (EU) 2018/1840. (See end of Document for details)*

(4) On 13 April 2017, Slovenia requested the Commission to authorise a delay of a second tranche of NLB shares representing at most a 25 % minus one share ('25 % - 1') stake in NLB and it notified the Commission of amended commitments. On 11 May 2017, the Commission concluded that those amended commitments continued to ensure the compatibility of the aid in favour of NLB with the internal market ('the 2017 amendment Decision')[5].

(5) On 8 June 2017[6], the Slovenian authorities decided to put NLB's sale process on hold and on 9 June 2017, the Slovenian Minister of Finance informed the Commission of that decision by phone.

(6) In the autumn of 2017, numerous contacts took place between the Commission and Slovenia. Slovenia also shared a number of non-papers with the Commission[7]. On 21 December 2017, Slovenia formally notified the Commission of further amended commitments.

(7) By letter dated 26 January 2018 ('the 2018 opening Decision'), the Commission informed the Slovenian authorities of its decision to initiate the procedure laid down in the first subparagraph of Article 108(2) TFEU in respect of the request to confirm the compatibility of the aid granted to NLB on the basis of the further amended commitments.

(8) On 2 March 2018, Slovenia submitted its comments on the 2018 opening Decision.

(9) On 6 April 2018, the 2018 opening Decision was published in the *Official Journal of the European Union* and interested parties were called upon to submit their comments. Within the one-month period following that publication, the Commission received comments from four parties, which were forwarded to the Slovenian authorities on 16 and 18 May 2018. On 15 June 2018, Slovenia by way of reply submitted its observations on those comments.

(10) On 26 March 2018, 4 April 2018, 30 May 2018, 21 June 2018, 29 June 2018 and 9 July 2018 Slovenia submitted new non-papers, which included a series of proposed groups of commitments.

(11) By letter dated 13 July 2018, Slovenia submitted to the Commission a new set of State aid commitments ('amended commitments'), with among others new deadlines for the sale of a 75 % - 1 stake in NLB. For reasons of legal certainty, Slovenia also notified a proposed measure on 25 July 2018, as a no aid measure, under which Slovenia would compensate NLB against any potential consequences of court cases relating to foreign currency deposits which is a historic issue dating back to before the break-up of Yugoslavia.

(12) By letter dated 16 July 2018, Slovenia agreed exceptionally to waive its rights under Article 342 TFEU[8] in conjunction with Article 3 of Regulation (EC) No 1[9] and to have the present decision adopted and notified in English.

2. DESCRIPTION OF THE AID MEASURE

2.1. **Description of the beneficiary**

(13) NLB is the largest bank in Slovenia with a market share of 23 % (calculated by reference to its total assets)[10]. A more detailed description of NLB can be found in recitals 11 to 22 of the 2013 Decision. In terms of its shareholders' structure, since the State recapitalisations of 2012 and 2013, NLB is a 100 % State owned company[11].

(14) Also as a result of the State aid NLB has received, NLB had a core equity tier 1 ratio of 16,6 % as at the end of March 2018. NLB has also improved its profitability and has reported at the end of 2017 a net profit of EUR 225 million, which equates to a return on equity of 14,4 %. Table 1 contains details on NLB's key financial information[12]:

TABLE 1

Key consolidated financial information of NLB:

	31.3.2018	**31.12.2017**	**31.12.2016**
Total assets (in EUR million)	12 425	12 238	12 039
Risk-Weighted Assets (in EUR million)	8 634	8 547[a]	7 862
Net profit after tax (in EUR million)	58	225	110
Non-performing loans/total loans (in %)	8,8	9,2	13,8
Core Equity Tier 1 ratio (in %)	16,6	15,9	17,0
Loan to deposits ratio (in %)	69,8	70,8	74,2
Return on Equity (in %)	13,5	14,4	7,4

a The risk-weighted assets increased in 2017 as a result of increased retail exposures, as a correction of the treatment of NLB's Foreign Exchange position on a consolidated level and due to the treatment of equity investments in non-euro subsidiary banks.

(15) In terms of its commercial presence, NLB has currently 108 outlets in Slovenia (as at the end of March 2018), down from 143 outlets in 2013. Outside of Slovenia, NLB has foreign subsidiaries in a number of Balkan countries, representing in total EUR 3 800 million in assets and EUR 95 million in after-tax profit[13] (end of 2017 figures). Table 2 contains more information on NLB's Balkan subsidiaries:

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TABLE 2

Key financial information of NLB's Balkan subsidiaries

	FYRoM	Bosnia subsidiary 1	Bosnia subsidiary 2	Kosovo	Montenegro	Serbia
NLB's stake (in %)	87	100	97	81	100	100
Market share (in %)	16,4	18,9	5,3	15,7	11,0	1,2
Profit after tax (in EUR million)	40	23,7	8,3	14,2	5,4	3,7
Total assets (in EUR million)	1 236	670	531	584	457	371

(16) NLB continues to own a 50 % stake in insurance company NLB Vita d.d., Ljublana ('NLB Vita'), which is a joint venture with Belgian KBC Group NV. At the end of 2017, NLB Vita reported total assets of EUR 446 million[(14)] and EUR 7 million in after-tax profit for that year.

(17) On 31 December 2017, NLB started the process to liquidate its leasing subsidiary in Ljubljana[(15)]. On 29 November 2017[(16)], NLB's Supervisory Board approved the establishment of a new leasing company, focusing on vehicle leasing, with an initial paid-in capital of EUR 1,5 million. In February 2018, NLB discontinued the process of establishing the new leasing company.

2.2. **State aid measures in favour of NLB**

(18) By means of the 2013 Decision and based on commitments submitted by Slovenia, the Commission declared the following State aid measures in favour of NLB compatible with the internal market:

(a) a first recapitalisation of EUR 250 million, temporarily approved in the first rescue Decision;

(b) a second recapitalisation of EUR 383 million, temporarily approved in the second rescue and opening Decision;

(c) a third recapitalisation of EUR 1 558 million; and

(d) a transfer of impaired assets to a State-owned bad bank with an aid element of EUR 130 million[17].

In total, NLB received State aid measures of EUR 2 321 million, equivalent to 20 % of its risk-weighted assets as of December 2012.

(19) The commitments submitted as part of the 2013 Decision and the 2017 amendment Decision are described in more detail in Sections 2.3 and 2.4 of the 2018 opening Decision. Regarding the sale of the 75 % - 1 stake in NLB, Slovenia committed, in the context of the 2017 amendment Decision, to the following ('the sale commitment'):

… [reduction of State's shareholding and foreign banking subsidiaries]

Slovenia will reduce its shareholding in NLB to 25 % plus one share ('Blocking Minority') as follows:

(a) by at least 50 % by 31 December 2017.

If Slovenia has not entered into (a) binding sale and purchase agreement(s) for the sale of its shareholding in NLB by at least 50 %, Slovenia and NLB shall grant to the Divestiture Trustee an exclusive mandate to sell NLB's participations in (its foreign Balkan) banking subsidiaries for a minimum price not lower than 75 % of book value.

(b) having sold at least 50 % of its shareholding in NLB in accordance with subparagraph 14(a), Slovenia will further reduce its shareholding to the Blocking Minority by 31 December 2018.

If Slovenia has not entered into (a) binding sale and purchase agreement(s) for the sale of its shareholding in NLB exceeding the Blocking Minority by 31 December 2018, Slovenia shall grant to the Divestiture Trustee (appointed in accordance with paragraph 19) an exclusive mandate to reduce the Slovenia's shareholding in NLB to the Blocking Minority for the […][18]

(20) The interrupted sale process is described in detail in Section 2.5 of the 2018 opening Decision.

2.3. Grounds for initiating the procedure

(21) In the 2018 opening Decision, the Commission opened a formal investigation after it had become clear that Slovenia had breached the deadline set in the sale commitment (described in recital 19). The Commission concluded that, as a result, the aid granted to NLB by Slovenia had become unlawful.

(22) As regards the amended commitments notified on 21 December 2017, the Commission expressed doubts that those were equivalent to the commitments underlying the 2013 Decision and the 2017 amendment Decision. The Commission doubted whether the aid measures were compatible with the internal market on the basis of those amended commitments.