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The Director

Convergence, Competitiveness and Cross-border programmes in
in Denmark, Estonia, Finland, Latvia, Lithuania, Poland, Sweden
The Acting Director

Brussels, 08.12.2008* 11789
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Subject: Financial Engineering and JEREMIE in Poland

Dear President,

We were recently informed about the position adopted by the Loan and Guarantee Funds Conference on 6 September 2008, addressed to various actors of economic development in Poland. With reference to this, the Commission services think it important to clarify certain important issues relating to the implementation of Financial Engineering in the programming period 2007-2013 in order to complete the picture of the perception of JEREMIE in Poland.

For the 2007-2013 programming period of the European Structural Funds, the initiative JEREMIE was developed to improve access to finance for SMEs. It offers several advantages, among others its long term sustainability through the revolving character of funds and incentives on the part of the beneficiaries towards better performance who must repay some of the assistance received.

We highly appreciate your positive appraisal of the implementation of the last programming period (Measure 1.2 of the Sectoral Operation Programme "Improvement of the Competitiveness of Enterprises"). In Poland a perception seems to exist that the rules on Financial Engineering in the new funding period are competing with the rules that were applied in Poland during the funding period 2004-2006. Concretely, some stakeholders believe that if JEREMIE is not implemented, the possibility exists to give grants to financial intermediaries without any conditionality.

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On the basis of EU legislation in force and the relevant guidance notes¹, I would like to highlight that the EU legislation for the Structural Funds for the new programme period 2007-2013, for state aid and public procurement, etc, apply to *all* financial engineering systems i.e. both to financial engineering implemented through a Holding Fund (JEREMIE) as well as through a non-repayable contribution (grant) to a financial intermediary.

Key legislation to be considered concerns **state aid and public procurement**: State aid would most likely be present in the case of grants to financial intermediaries, i.e. state aid clearance also at this level, would be indispensable for such kind of operations. The selection of financial intermediaries has to be conducted in an open and transparent selection procedure through calls for proposals or tender procedure in line with national legislation, compatible with the EC Treaty and EU legislation.

I also wish to draw attention to Article 78(7) of Regulation 1828/2006, about the use of interest earned and the reuse of resources returned. The first subparagraph of this Article sets out that Member States or managing authorities must use the interests generated by contributions from operational programmes, to finance financial engineering instrument for the purpose of supporting SMEs.

The second subparagraph of this Article provides that resources returned to the operation from investments undertaken under financial engineering, shall be reused by the competent authorities of the Member State concerned for the benefit of small and medium enterprises. There could be several options in implementing this provision, such as to decide to reuse resources returned through financial engineering instruments in a second cycle of investment in support of SMEs.

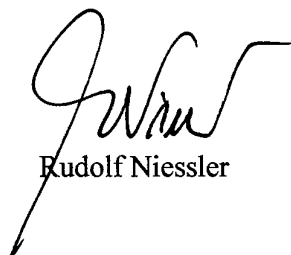
As far the requirement for recycling resources returned to operations and the requirements of Articles 43(6) and 44(2) of Regulation 1828/2006, to include an exit policy in the respective funding agreements for contributions from operational programmes to financial engineering instruments such as venture capital loan or guarantee funds, or for contributions to holding funds, you can look for further clarifications in the COCOF note II on financial engineering, section A-point 3, and in the replies given by the Commission services to the questions nr 10 and 11 of the JESSICA expert group of Member States (all these documents are attached here for the ease of reference).

Regarding closure of Operational Programmes at the end of 2015, the resources contributed from operational programmes to financial engineering instruments must have been invested in SMEs or committed for guarantees at least once (see Art. 78(6) of Reg. 1083/2006).

Finally, I wish to stress that the Commission is very supportive to a successful take off of JEREMIE in Poland and of course, the successful support and development of financial engineering schemes depend on the response of interested actors in this field. We are convinced that the new sources of technical, financial, and managerial expertise can give a strategic stimulus both to the development of the financial sector in Poland and to economic development by improving the access to finance of SMEs.

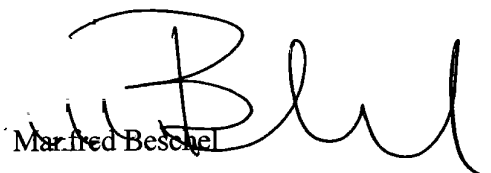
¹ Council Regulation (EC) No 1083/2006, Art.44 and Commission Regulation 1828/2006, Art. 43-46, the two Notes of the Commission services on Financial Engineering of 16 July 2007 (COCOF 07/0018/01) and of 24 September 2008 (COCOF 08/0002/00)

We hope to have convinced you that JEREMIE is not a new instrument competing with the existing financial intermediaries in Poland, but a real asset to the financial market, strengthening the offer of financial services available to SMEs.



Rudolf Niessler

Yours sincerely,



Manfred Beschel

Copies:

Mrs H. Jahns, Secretary of State, Ministry of Regional Development

Mr A. Szejnfeld, Secretary of State, Ministry of Economy

Mr W. Husejko, Marshal of Zachodniopomorskie Region, President of the Convent of Marshals,

Mr M. Schublin, Head of JEREMIE, European Investment Fund

Archives H.1, Archives D.3