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*The Austrian Ministry of Finance endorses the opportunity to comment on the Commission's consultation paper STATE AID ACTION PLAN – Less and better targeted state aid: a roadmap for state aid reform 2005 – 2009.*

*Whereas we generally agree and support the envisaged ambitious approach to establish a more streamlined state aid policy and to clarify its core principles, we believe that some additional remarks ~~should be given~~ with regards to ~~the~~ financial markets ~~are called for~~. ~~Therefore, For this reason~~ our response is focused on the single issue of state aid control in case of financial crisis/banking crisis. We want to draw ~~this~~ special attention ~~to of~~ the inherent contradiction ~~between of~~ fair competition and financial stability in the event of crisis, because we consider the maintenance of functioning financial markets to be of major concern as a prerequisite to improve the competitiveness of European industry and to generate growth and sustainable jobs in the context of the Lisbon Agenda as set out in the Commission's roadmap.*

Through the increasing integration in the financial area, which was enhanced by the FSAP in 1999 and which will further be fostered by the Commission's financial policy strategy expressed in its Green Paper on Financial Services Policy (2005-2010) the need to preserve a level playing field for all market participants in the Single European Market became more apparent in recent years. ~~Once~~**Inasmuch financial markets are opened up**, possible liquidity problems of single banks as well as respective public financial support (for instance, emergency lending, guarantees or capital injections but also national liability rules) will be increasingly felt across borders and across sectors.

Having in mind that in the past **Member States** have been **responsible** for financial crisis management we consider the currently ongoing debate on how to co-ordinate and proceed at ~~an E~~**Europeanwide** level in case of financial crisis of utmost importance. In that respect we want to positively emphasise the expressed policy **commitment to co-operate** in crisis events demonstrated by the conclusion of two Memoranda of Understanding between banking supervisors, central banks and finance ministries.

In the difficult and sensitive question of finding a balance between the proper **goals of fair competition** and the **prevention of systemic crisis** which may not only affect the financial markets but the (European) economy as a whole, we think that it would prove both necessary and useful for the Commission to give guidance under which conditions and procedures national aid would be considered compatible with the common market.

It should be emphasised ~~that, when~~ in the case of ~~a~~ banking crisis, state aid is not targeted to attract investment in the insolvent bank or to protect ill-prepared national market players from

competition but to support the **confidence of investors** in the bank and the market and therefore to inhibit financial crisis.

With a view to ensuring that the Treaty rules are fully respected, we consider it vital that the provisions of such a framework will give special focus on promoting an effective **monitoring system** that guarantees a permanent impact assessment of the subsidy on competition. The creation of such a framework also seems necessary or even mandatory in respect of the objectives underpinning state aid control as laid down by the Commission itself: namely to provide for a state aid reform towards more efficiency and more equity in the light of the Lisbon agenda.

We would therefore like to encourage the Commission to **openly discuss and further evaluate with the respective stakeholders and national authorities under what circumstances state aid to banks or other financial institutions banking subsidies may be allowed** or even be regulated by the use of block exemptions in case of financial crisis.

Only such an **ex-ante regulation** would give the competent authorities/governments the chance to better focus their resources on aid measures and to provide for a clear and predictable procedure. Furthermore, ~~national~~-cooperation between Member States is only feasible if a safe and predictable legal environment is already established beforehand and only then can national authorities ~~can~~ be expected to provide the Commission with effective support as asked in the paper.

Though, we are aware that in the highly complex and sensitive area of financial crisis a framework for subsidies can never concretely and sharply be designed ex ante, we want to stress, that in the name of **legal certainty** as well as for pragmatic reasons - to provide for preparation and timely assistance - an effort should be made to develop flexible practical provisions which can be adjusted and applied according to the specificities of each single case.