





Weekly Briefing

Slovenia Economy briefing:
Government plan for the privatisation of NLB bank
Helena Motoh

China-CEE Institute

Kiadó: Kína-KKE Intézet Nonprofit Kft.
Szerkesztésért felelős személy: Chen Xin
Kiadásért felelős személy: Huang Ping

 1052 Budapest Petőfi Sándor utca 11.
 +36 1 5858 690
 office@china-cee.eu
 china-cee.eu

Government plan for the privatisation of NLB bank

Summary

The response from the European Commission about the explanations that that Slovenian government presented in June this year on the legality of the government sanation of the bank in 2013, is expected in August. On July 13th, government made a decision on the privatization of Nova ljubljanska banka (NLB), according to which Slovenia would sell off at least 50 percent plus one share, with the additional 25 percent scheduled to be sold off next year.

History and background

Since it is a crucial state owned bank, the crisis that Nova Ljubljanska banka (New Bank of Ljubljana, in short: NLB) was going through after 2011 was also seen as extremely problematic for Slovenian economy in general. This issue was made even worse by the negative trend of credit evaluations by Fitch and Moody's. In three years between 2011 and 2013 Nova ljubljanska banka was helped with three large aids from the state budget to help alleviate its status, 250 million € in 2011, 383 million € in 2012 and 1558 million € in 2013. This last injection of capital was criticized by the European Commission, which initially attempted to intervene through the means of »Troika« (European Commission, European Central Bank and International Monetary Fund), but then negotiated the terms in talks with Prime Minister Alenka Bratušek. The compromise agreement was for Slovenia to push forward the process of privatization of state-owned companies. The other requirement of the European Commission was that Slovenia agrees to sell off and privatize two biggest state owned banks, Nova ljubljanska banka and Abanka. A new Bank Assets Management Company (DUTB) was established to take over the non-performing assets from NLB and three other banks: NKBM, Abanka and Banka Celje.

After Slovenian economy started to pick up after the crisis was over, it was seen like an untimely and unwise decision to sell off the again profitable bank NLB. The fact that the status of the law suits by Croatian citizens about their foreign currency bank accounts after the split of Yugoslavia is also pressing to the point, that this potential risk significantly lowers the potential price at which the bank could be sold. The additional short deadline could also contribute to the less than optimal sell off of Slovenia's most important state owned bank.

According to the 2013 compromise with European Commission Slovenia was obliged to sell 75% minus one share by the end of 2017. In autumn 2017, despite a stopped attempt of selling in spring, it finally became clear that Slovenia will not be able to fulfill the required condition and would risk potential sanctions by the European Commission. Several alternative scenarios of the sell-off were proposed by the Slovenian government, and negotiated without significant success in consecutive meetings of Slovenian government representatives, Slovenian Minister of Finance, Mateja Vraničar Erman and Prime Minister Cerar with the European Commissioner for Competition, Margrethe Vestager and President of European Commission, Jean-Claude Juncker, respectively.

The issue of transferred foreign currency deposits between Croatia and Slovenia

When the Socialist Federative Republic of Yugoslavia fell apart in 1991 and 1992, the banking system also collapsed. The previous guarantees for the bank deposits, which were given by the National Bank of Yugoslavia, were partly transferred to the new national banks in the newly formed countries. Slovenia issued a constitutional law in 1991, which followed the territorial principle. According to this law, the guarantees were given for all the foreign currency deposits which were located on the territory of Slovenia, regardless of the origin of the banks. In 2001, five countries descendants from the former SFRY – Slovenia, Croatia, Bosnia and Herzegovina, Macedonia and Federal

Republic of Yugoslavia (today: Serbia) signed a succession agreement, according to which the transferred foreign currency deposits constitute a part of the succession negotiations. In addition, before Croatia joined EU, the 2013 Memorandum of Mokrice, signed by Croatia and Slovenia, specified that the issue of the transferred foreign currency deposits is left for succession agreements and Croatia would stop any court procedures against Slovenia on that matter.

Despite the agreements, Croatian courts still did not stop the procedures against the Nova ljubljanska banka. In 1994 and 1996, two Croatian banks – Privredna banka Zagreb (PBZ) and Zagrebačka banka (ZABA) – have started 27 law suits against the Nova ljubljanska banka and former Ljubljanska banka. Later these were joined to 15 procedures, of which five were finished. Only one of them was decided in favor of Nova ljubljanska banka and four in favor of the Croatian banks. Both banks pursue the legal procedures under the authorization of the Croatian Ministry of Finance. The total principal sum of all the claims is 172.2 million Euros with the interest now already exceeding this number. Since 2008, Croatian Supreme Court started to take the position that the two banks have active legitimization to pursue the law suits against Nova ljubljanska banka and the former Ljubljanska banka. In this dispute Croatian side is claiming the legal continuity of the two banks and asserts that Nova ljubljanska banka is responsible for the deposits in the former Ljubljanska banka, while the Slovenian side considers this false and against the constitutional law and the against the agreed scope of succession agreements. The situation is made worse by the fact that succession agreements are at a long standstill, with none of the former Yugoslav federal states, except for Macedonia and Slovenia, willing to start the negotiations on financial succession.

On the 14th of June, following the second-level decision of 2015, the Constitutional Court in Croatia rejected the appeal of Nova ljubljanska banka in relation to the court case it had lost to the Croatian account holders. Consequently, the only possibility of appeal is at the European Court of Human

Rights in Strasbourg, but the costs of the appeal might rise to several million Euros. This was one of the factors in the decision by the European Central Bank, which forbid the Nova ljubljanska banka to distribute the dividends of the otherwise extremely good year 2017. The distributable profit in last year was 270.6 million Euros and the demand of European Central Bank not to distribute it was due to the risk factor of Croatian law suits, while also putting additional pressure on Slovenian government to go through with the sell-off.

Slovenian response in the European Commission procedure

On June 14 Slovenia prepared a response to the third party comments, which were given in the procedure for assessing the legality of the government aid to Nova ljubljanska banka. Because the agreed privatization of the bank was not performed in due time (end of the year 2017), Slovenia proposed a change of obligation agreement with the European Commission then starting an investigation of the proposed changes. Interested third parties' comments were presented to Slovenia in May. After the Slovenian response, European Commission has 18 months time to close the procedure, but it is expected that the decision will be made in August this year.

Due to the June elections, initially the Minister of Finance, Mateja Vraničar Erman, proposed that the decision on the Nova ljubljanska banka should be made with the new parliament political parties and the new prime minister. Since the composition of the government is taking a considerably long time and it is still unclear which political party and which prime minister will be able to obtain a parliament majority, the current government in resign decided to go through without negotiating the matter with the newly elected representatives. Although the response to the European Commission is confidential, it is evident that the government proposal is along the lines of the recent government decision of July 13. On this recent date the Prime Minister Miro Cerar government made a decision on the restart of the sell-off process for Nova

ljubljska banka. The plan is to sell 50 percent plus one share by the end of 2018 and the remaining 25 percent plus one share by the end of 2019.

In order to guarantee a better starting position for the selling offer, the government also agreed on a draft of the law for protection of the value of the capital investment of the state in Nova ljubljska banka, which guarantees the retribution of the damage done to the bank as effect of the law suits in Croatia.

Conclusion

Since the changed plan is allegedly made in accordance with the negotiation which had already taken place between the Slovenian government and the European commission, the government expects that the plan will be supported by the other side in the August decision. If not, the risk of forced sell-off might be a great liability for the future of the Nova ljubljska banka and a detrimental influence for the Slovenian economy as well. The method of the sell-off will be IPO (initial public offering), which together with the more stable circumstances in both Slovenian politics and EC-Slovenia relation, might guarantee a more favorable result.