



REPUBLIC OF ALBANIA
-THE COMPETITION AUTHORITY-
-THE COMPETITION COMMISSION-

DECISION
Nr. 142, Date 15. 03. 2010

“To close the thorough investigation process against Raiffeisen Bank Sh.a. regarding the abuse with its dominant position in the primary and secondary market for treasury bills, and establishing conditions and requirements for “Raiffeisen Bank” Sh.a.”

The Competition Commission, with the participation of:

- Ms. Lindita MILO (LATI) Chair
- Ms. Servete GRUDA Member
- Mr. Koço BROKA Member
- Ms. Rezana KONOMI, Member,

in its meeting of 15.03.2010, reviewed the case with the following:

Objective: Reviewing the thorough investigation report on the potential abuse of dominant position in the market for treasury bills for Raiffeisen Bank, and

Legal Basis: Law Nr. 9121 “On the protection of competition”, article 9, point 2, letter *dh*, article 24, letter *d* and article 45 point 2;

Law Nr. 8485, date 11.11.1999, “Code of Administrative Procedures”,

after reviewing the final report from the thorough investigation in the market for treasury bills, initiated after Decision nr. 98, date 18.12.2008 of the Competition Commission and after reviewing the narration of the Secretary General as well as the claims of the party which were made known at the hearing session of 18.01.2008 and deposited near the Competition Authority on 15.01.2010 and 04.02.2010, the investigation process, where:

OBSERVED:

I. Procedures followed

- 1) The procedures followed during the investigation phase are based on chapter 2 of the second part and chapter 2 and 3 of the third part of law nr. 9121, date 8.07.2003, "On the protection of competition," and law nr. 8485, date 11.11.1999, titled "Code of Administrative Procedures."
- 2) The Secretary of the Competition Authority, based on article 28, letter a of Law nr. 9121, date 28.07.2003, "On the protection of competition," with his own initiative in 2008, started a general investigation process of the banking market in general and of the market for treasury bills in particular to assess whether competition in this market was restricted as a result of market behavior of one or some of its market operators, or as a result of the regulations that apply to this market.
- 3) By the end of the monitoring phase in the primary market for treasury bills undertaken by the Research and Analysis Sector, the Secretary General of the Competition Authority, based on Article 42, point 1 of law nr. 9121, date 28.07.2003, "On the protection of competition," through Decision nr. 8, date 15.07.2008, decided to "Initiate preliminary investigation procedures in the primary market for treasury bills."
- 4) By the end of the preliminary investigation process in the primary market for treasury bills, it was concluded that this market was heavily concentrated, one where Raiffeisen Bank (herein after RB) was obviously the main operator in this market. The price for treasury bills in this market has been fluctuating considerably in different time periods. Bank of Albania had identified possible problems in the way the primary market for t-bills was functioning. Also, it was observed that Raiffeisen Bank had considerable weight in the secondary market for treasury bills.
- 5) For these reasons, the Competition Commission, based on article 24, letter d and article 43, point 1, of law nr. 9121, date 28.07.2003, "On the protection of competition," as well as article 21, point 4, of the guide "On the functions of the Competition Authority," decided, through Decision nr. 98, date 18.12.2008 to "Open a thorough investigation process for evaluating whether Raiffeisen Bank has abused with its dominant position in the primary and secondary market for treasury bills."
- 6) In enforcement of Decision nr. 98 of the Competition Commission, date 18.12.2008, to "Open a thorough investigation process for evaluating whether Raiffeisen Bank has abused with its dominant position in the primary and secondary market for treasury bills," the Secretary General of the Competition Authority, through Order nr. 114, date 22.12.2008 "To establish a working team for realizing the thorough investigation process in the primary and secondary market for treasury bills," and in support of article

28, letter *b*, article 29, point 2 of law nr. 9121, date 28.07.2003, “For the protection of competition,” as well as articles 18 and 22 of the guide “On the functions of the Competition Authority,” ordered to form a dedicated working group.

- 7) By the end of this investigation, the Secretariat submitted the investigation report on the market for treasury bills to the Competition Commission.
- 8) In enforcement of article 39 of the law “On the protection of competition,” the Competition Commission invited Raiffeisen Bank in a hearing session so that the party could voice its claims on the conclusions found in the report “For the possible abuse of Raiffeisen Bank with its dominant position in the primary and secondary market for treasury bills.” Raiffeisen Bank submitted its claims in writing through memo nr. 436/7prot, date 15.01.2010 and nr. 436/10, date 04.02.2010, as well as verbally during the hearing session held on 18/01/2010.
- 9) Also, a consultative session was held with participants from the Ministry of Finance, Bank of Albania, and the Financial Supervision Authority, where they were able to voice their opinions on the matter.

II. THE INVESTIGATION PERIOD AND THE COMPANY UNDER INVESTIGATION

- 10) The investigation period starts in 2005 and ends in 2008, and was established as such by the Competition Commission’s decision nr. 98, date 18.12.2008 “To thoroughly investigate whether or not Raiffeisen Bank has abused with its dominant position in the primary and secondary market for treasury bills.”
- 11) The company under investigation, as per Decision nr. 98 of the Competition Commission, is Raiffeisen Bank.

III. RESPECTIVE MARKET

- 12) The respective market is established in two dimensions:
 - a) The respective market of the product
 - b) The respective geographical market

III.1. The respective market of the product

- 13) The respective market of the product is the market for treasury bills (short term domestic debt up to 1 year), sub divided in the following:
 1. The primary market for treasury bills is the market where parties buy and sell regularly bills offered by the Republic of Albania through the banks that own them.

2. The secondary market for treasury bills branches in two additional sub markets:
 - a) The secondary inter bank market, where banks buy and sell treasury bills among themselves, and
 - b) The secondary retail market, which is where investors - physical and judicial persons, resident and non residents - can buy and sell treasury bills directly from the counters of banks and other operators that are licensed to carry such transactions.

III.2. The respective geographical market

- 14) The geographical market includes the area in which companies supply and demand goods and services, and where competition conditions are homogenous. Since banks and other financial institutions are present in almost the entire geographical territory of the Republic of Albania, than the latter is established as the respective geographical market.

III.3 Demand side substitution

- 15) Second level banks, financial institutions, other public and private institutions and individuals stand on the demand side for treasury bills. The substitution analysis in this case considers other potential investment alternatives for these subjects.

III.4 Supply side substitution

- 16) An alternative to substitute this product from the supply side (t-bills suppliers such as the Ministry of Finance, or the liquidity seeker) are obligations. Obligations in this case include risk free debt titles that mature in periods longer than 1 year (in Albania they have maturities of 2, 5, and 7 years). Regardless of the different maturity terms for these products, we can consider them as substitutes of each other because they all serve the one purpose of financing government debt and are all considered risk free.

IV. DEVELOPMENTS IN THE MARKET FOR TREASURY BILLS

IV.1 The primary market

- 17) Raiffeisen Bank has inherited a dominant position in the market from the privatization of the former Savings Bank. During the period under investigation, it could be noted that the market has been very dynamic when it comes to those parts of the market that are dominated by its operators. More detailed information on the market dynamics in this case can be found in table 1 below:¹

Table Nr.1: RB market share in the primary market for treasury bills

¹ Source: Data taken from the Bank of Albania (2005-2008)

Years	2005	2006	2007	2008 ²
Raiffeisen Bank				
National Commercial Bank				
Tirana Bank				
Intesa Sanpaolo Bank				
Alpha Bank				
Procredit Bank				
Societe General				
Credins Bank				

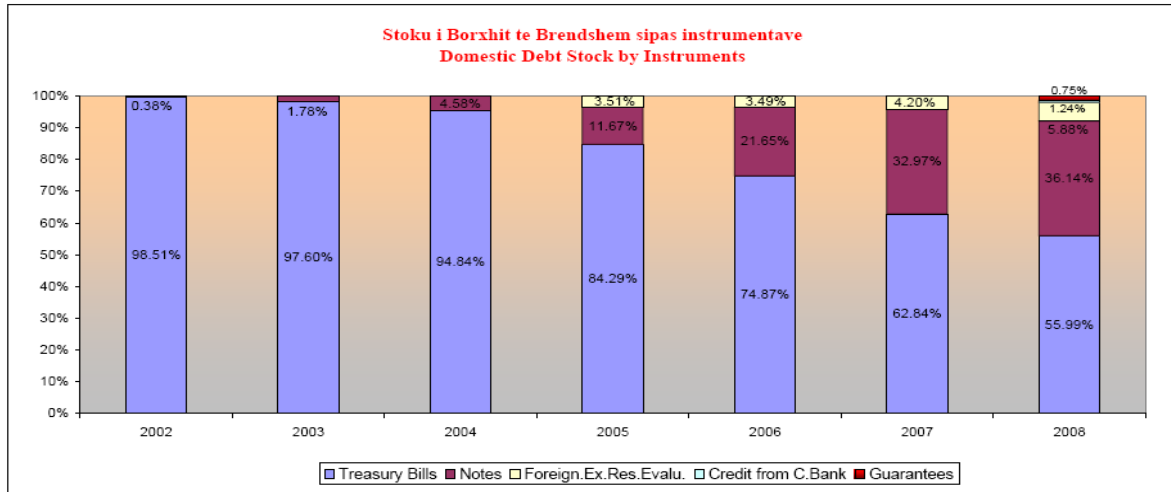
18) The primary market shows barriers to entry in terms of the required minimal amount for participation of individuals and the transfer of the counters from the Bank of Albania to the banks of the second level. These measures, taken since 2005, have increased participation costs and entry barriers in the auctions for treasury bills for individuals and businesses alike. Even the International Monetary Fund has been in favor of having individuals and businesses deposit their investment funds for treasury bills in the counters of the Bank of Albania, which is seen mainly as a way to give individuals and SMEs direct access to the primary market.

19) There is only one seller in this market and that is the Albanian Government. To cover its liquidity demands, the government issues marketable securities. Government domestic debt can be financed through several different instruments. However, the weight of treasury bills in this funding scheme is much greater than the funding weight of other financial debt instruments. This weight, though, has been decreasing for treasury bills, and other forms of debt financing securities have been gaining ground, especially after 2005.

20) The investigation process and the hearing sessions showed that during the investigation period there have been changes in the structure of debt financing instruments, both of short term and long term debt, thereby increasing the weight other securities have on this financing process. These changes are attributed to the financial managing strategies of the Ministry of Finance. The graph below shows the share of each debt financing instrument from 2002 to 2008³. As can be seen from the graph, notes have started to circulate in the market starting in 2002, and have had a maturity term of only 2 years up to 2004. In 2005, 3-year bonds were first issued, and one year later, in 2006, 5-year bonds did so as well. For the first time in 2007, the government issued 7-year bonds.

Graph 1: Domestic debt stock by instruments

³ Source: Ministry of Finance, Indicators of debt and financial instruments



IV.2 The secondary market

- 21) Treasury bills are traded in the secondary market and exchanged between banks in the inter bank market, as well as between banks and owners of these bonds in the secondary retail market. According to FSA, there are 5 banks operating in the latter market, and the market itself is not well developed.
- 22) The number of branches that RB has within the country is much greater than that of any other banks. Its branches are spread out in the entire territory of the Republic of Albania and the competing power of other banks, given their smaller branching intensity (when compared to RB), is much lower. There are cities where RB is the only bank (option) to invest in treasury bills in the secondary market because other banks either don't have branches in these cities or if they do, they don't offer the service of buying treasury bills for individuals.
- 23) Another characteristic of the primary and secondary market for treasury bills is the asymmetry of information. The information presented by banks is incomplete and unclear, thus limiting choice options for clients. This has been a factual observation of the task force under the responsibility of the Secretary of the Competition Authority. In general, from our observations in different banks that offer treasury bills in the secondary market, we can conclude that there is a tendency to lack transparency in terms of information given to clients regarding their options on investing in treasury bills. The lack of informational brochures on treasury bills is especially obvious, and this limits clients' awareness on these instruments.

V. THE BEHAVIOR OF RAIFFEISEN BANK

- 24) During the analysis of the dynamics of the yield for t-bills, we could observe a sudden spike in the yield of treasury bills during the third quarter of 2006, and this was the reason why this investigation process was initiated in the first place.

25) During the investigation period we could observe that Raiffeisen Bank has experienced a decrease in market share not only in the market for treasury bills, but in the market for deposits as well. The dynamics of the deposits' market share for Raiffeisen Bank during the investigation period is shown in table 2 below⁴.

Table 2: Raiffeisen Bank market share by deposits

Year	2005	2006	2007	2008
Deposits				

26) The evidence and respective analysis of the factors that have affected the report of the thorough investigation process, taken jointly with the claims of the party under investigation and the opinions of the public institutions involved in the supervision of this market, show that:

- There is no direct and systemic link between the participation (or lack thereof) of the bank and the dynamics of change in the yield of treasury bills during the auctions held throughout the period under investigation (period when the bank had considerable market power).
- Raiffeisen Bank has stated that it has not participated in the auction – which was later followed by an increase in the yield – due to lower deposits, higher demand for credit, and its participation in the auctions for 2 year maturity bonds. These factors had caused a decrease in liquidity, which in turn did not allow the bank to participate in the primary market for treasury bills.
- The Bank of Albania, in its “Monetary Policy Report for the Second Half of 2006,” pg. 27, had stated that the increase for credit demand by the government, coupled with rapid credit issued in ALL denominate loans, had caused a decrease in liquidity in the system, which has been reflected in higher yields for treasury bills.

27) The commissions applied by Raiffeisen Bank for the transfer of funds from its own accounts to the Bank of Albania are high. According to FSA data from 2008, Raiffeisen Bank charges a commission of 1.2% to the funds available by individuals for participating in the primary market for treasury bills, while other banks apply a commission of 0.2% for the same service.

28) Therefore, keeping in consideration what was stated above, it was not proven that Raiffeisen Bank has abused with its dominant position in the primary and secondary market for treasury bills during the period under investigation.

29) In the primary market we could observe, from an economic standpoint, high and unjustified commissions charged by Raiffeisen Bank. The bank has

⁴ Source: Data taken from Raiffeisen Bank and calculations taken from the Report on Thorough Investigation

expressed its willingness to make adjustments for improving competition and lowering servicing costs for the consumers.

FOR THESE REASONS:

The Competition Commission, based on article 24, letter *d* and article 45, point 2, of law nr. 9121, date 28.07.2003, "On the protection of competition,"

DECIDED:

1. To close the thorough investigation process against Raiffeisen Bank for abusing with its dominant position in the primary and secondary market for treasury bills.
2. To impose several requirements on Raiffeisen Bank Sh.a. based on the engagements agreed by the bank during the hearing sessions:
 - I. Lower commissions charged to individuals that decide to participate in the primary market for treasury bills. These commissions must be lowered by 50% for a period of 3 years, so that individuals have incentives to participate in the primary market.
 - II. Improve the level of publicly available information on the exchange of treasury bills in the following ways:
 - a. Raiffeisen Bank will create *ad hoc* marketing materials that will be exposed and/or distributed to all its branches.
 - b. Every branch will show in real time the fluctuations of the treasury bills yield.
 - c. The information on treasury bills will be published in the website of Raiffeisen Bank, and the link must be clearly identifiable.
3. The Secretary General of the Competition Authority is responsible for notifying the party and for following the completion of the engagements agreed upon in this decision.

This decision is to be enforced immediately.

THE COMPETITION COMMISSION

Servete GRUDA

Rezana KONOMI

Koço BROKA

Member

Member

Member

Lindita MILO (LATI)

CHAIR