

02.05.2012

~~EDUSKUNTAA PYYDETÄÄN
NOUDATTAMAAN VAITELIAISUUTTA
TÄMÄN MUISTION KÄSITTELYSSÄ
SUOMEN NEUVOTTELUTAVOITTEIDEN
TURVAAMISEKSI.~~

*EDUSKUNTA
Suuri valiokunta*

Viite

Asia

Euroopan vakausmekanismin rahoitusapuvälineiden ohjeet sekä sijoitus-, riskienhallinta- ja osingonjakopolitiikat

U/E-tunnus:

EUTORI-numero: EU/2012/0314

Ohessa lähetetään perustuslain 97§:n mukaisesti selvitys Euroopan vakausmekanismin rahoitusapuvälineiden ohjeista sekä sijoitus-, riskienhallinta- ja osingonjakopolitiikoista.

Valtiovarainministeri

Jutta Urpilainen

LIITTEET VM2012-00384;ESM Guideline on Dividend Policy;ESM Guideline on the Secondary Market Support Facility;High Level Principles for ESM Risk Management;ESM Guideline on Financial Assistance for the Recapitalisation of Financial Institutions; ESM Investment Policy Guidelines for Paid-in Capital and Reserve Fund;ESM Guideline on Loans;ESM Guideline on Precautionary Financial Assistance; Terms and conditions of capital calls for ESM; ESM Guideline on the Primary Market Support Facility

Asiasanat talouskriisi

Hoitaa **VM**

Tiedoksi EK, VNEUS

RMO Tanninen Seppo, Kariniemi Pauli,
Weuro Jaakko(VM), Passinen
Tapio(VM)

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SAAVUTTAMISEKSI.~~

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Kokous

EU-ministerivaliokunta 04.05.2012

Liitteet

Viite

EUTORI/Eurodoc nro:

EU/2012/0314

U-tunnus / E-tunnus:

Käsittelyn tarkoitus ja käsittelyvaihe:

Euroryhmän työryhmän on tarkoitus lähiviikkojen kuluessa hyväksyä alustavasti Euroopan vakausmekanismin (EVM) rahoitusapuvälineiden yksityiskohtaiset ohjeet sekä sijoitus-, riskienhallinta- ja osingonjakopoliitikat. EVM:n hallintoneuvosto hyväksyy ohjeet ja -politiikat heinäkuussa EVM:n tultua perustetuksi.

Asiakirjat:

European Stability Mechanism Guideline on Loans (Draft of 23 April 2012)
European Stability Mechanism Guideline on Precautionary Financial Assistance (Draft of 23 April 2012)
European Stability Mechanism Guideline on Primary Market Support Facility (Draft of 24 April 2012)
European Stability Mechanism Guideline on Secondary Market Support Facility (Draft of 23 April 2012)
European Stability Mechanism Guideline on Financial Assistance for the Recapitalisation of Financial Institutions (Draft of 18 April 2012)
European Stability Mechanism Investment Policy Guideline for Paid-in Capital and Reserve Fund (Draft of 23 April 2012)
High Level Principles for ESM Risk Management (Draft of 23 April 2012)
European Stability Mechanism Guideline on Dividend Policy (Draft of 24 April 2012)

EU:n oikeuden mukainen oikeusperusta/päätöksentekomenettely:

-

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Suomen kanta/ohje:

Suomi korostaa EVM:n yksityiskohtaisia ohjeita ja toimintapolitiikkoja koskevissa neuvotteluissa seuraavia tekijöitä:

1. EVM:n rahoitusapuvälineitä koskevien ohjeiden sekä sen sijoitus-, riskienhallinta- ja osingonjakopolitiikkojen tulee olla yhdenmukaisia EVM - sopimuksen kanssa.
2. EVM:n rahoitusapuvälineitä koskevien ohjeiden tulee vastata keskeisiltä osiltaan marraskuussa 2011 hyväksyttyjä ERVV:n vastaavia toimintaohjeita.
3. EVM:n maksetun peruspääoman sijoituspolitiikan pitää olla varovaista ja matalariskistä keskeisenä tavoitteenaan pääoman arvon säilyttäminen.
4. EVM:n rahoitusapuvälineiden käyttöä koskevien ohjeiden sekä sen sijoitus-, riskienhallinta- ja osingonjakopolitiikkojen tulee olla muissa kansainvälisissä rahoituslaitoksissa sovellettavien parhaiden käytäntöjen mukainen.

Pääasiallinen sisältö:

Euroopan vakausmekanismin (EVM) on tarkoitus aloittaa toimintansa heinäkuun alussa 2012. EVM:n toimintakyky edellyttää, että sen sisäistä hallintoa, päätöksentekoa, henkilöstöä ja sen kautta myönnettävää rahoitustukea koskevat ohjeet ja muut politiikkalinjaukset tehdään kesäkuun 2012 loppuun mennessä. Aikataulu EVM:n perustamiseen liittyvien tarkentavien määräysten valmistelulle on haastava sekä eurooppalaisen tason neuvottelujen että Suomen kannalta.

Aikaisemmin toimitettujen EVM:n hallintoa koskevien ehdotusten lisäksi on nyt toimitettu luonnokset myös seuraavista EVM:n toimintaa ohjaavista ohjeista ja politiikkalinjoista: lainamuotoista rahoitusapua koskeva ohje, ennalta varautuvaa rahoitusapua koskeva ohje, ensimarkkinoiden tukivälinettä koskeva ohje, jälkimarkkinoiden tukivälinettä koskeva ohje, rahoituslaitosten lainamuotoista pääomittamista koskeva ohje, EVM:n peruspääoman ja vararahastojen sijoituspolitiikkaa koskevat ohjeet, EVM:n riskienhallintapolitiikan periaatteet sekä EVM:n osingonjakopolitiikka.

Johtokunta hyväksyy rahoitusapuvälineitä koskevat ohjeet sekä sen sijoitus-, riskienhallinta- ja osingonjakopolitiikat määräenemmistöllä (80 %).

Tukivälineitä koskevat ohjeluonnokset vastaavat pitkälti ERVV:n vastaavia toimintaohjeita. Luonnoksia koskevat virkamiestason neuvottelut aloitettiin 26.4.2012.

Lainamuotoista rahoitusapua koskeva ohje

EVM:n lainamuotoisesta tukivälineestä määrätään EVM-sopimuksen 16 artiklassa. Artiklan mukaan EVM:n johtokunta antaa tukivälinettä koskevat yksityiskohtaiset ohjeet. Ohjelunonnoksessa määritellään lainamuotoisen rahoitustuen tavoitteet sekä käyttönoton ja maksatusten periaatteita.

Jos euroalueen jäsenvaltio ei saa rahoitusta markkinoilta tai rahoituksen hinta kohoaa kestävämmän korkeaksi, EVM:n hallintoneuvosto voi päättää myöntää jäsenvaltiolle ehdollista rahoitustukea lainan muodossa. Lainamuotoisen rahoitustuen tavoitteena on myöntää väliaikaista, ehdollista rahoitustukea, jotta kyseinen valtio saa aikaa toteuttaa tarvittavat talouden sopeuttamistoimet ja sen pääsy rahoitusmarkkinoille palautuu.

Menettely käynnistyy siten, että asianomainen jäsenvaltio pyytää tukea EVM:n hallintoneuvoston puheenjohtajalta, joka antaa komissiolle ja EKP:lle tehtäväksi arvioida rahoitusvakauteen liittyviä riskejä, velkakestävyyttä, rahoitustarpeen määrää ja korjaavien toimien tarvetta. Hallintoneuvosto päättää EVM:n esityksestä rahoitustuen periaatteellisesta myöntämisestä. Komissio, EKP ja tarvittaessa IMF laativat kyseisen valtion kanssa yhteisymmärryspöytäkirjan ja EVM rahoitustukisopimuksen, joissa määritellään tarvittavasta makrotaloudellisesta sopeutusohjelmasta ja rahoitustukeen liitettävästä ehdollisuudesta.

Komissio, EKP ja tarvittaessa IMF seuraavat sopeutusohjelman toimeenpanoa ja ehdollisuuden toteutumista. Rahoitustuki myönnetään erissä. EVM:n johtokunta päättää toimitusjohtajan ehdotuksesta yksimielisesti komission raportin pohjalta siitä, myönnetäänkö seuraava rahoituserä. Jos jäsenvaltio poikkeaa sovitusta ehdoista, voi johtokunta EVM:n esityksestä keskeyttää rahoituksen.

EVM-sopimuksen 20 artikla mukaan rahoitustuen hinnoittelu kattaa sen kustannukset ja sisältää tarpeellisen marginaalin.

EVM:n ennalta varautuvaa rahoitusapua koskeva ohje

EVM:n ennakollisesta tukivälineestä määrätään EVM-sopimuksen 14 artiklassa. Artiklan mukaan EVM:n johtokunta antaa tukivälinettä koskevat yksityiskohtaiset ohjeet.

Ennakollisessa tuessa EVM:n tarkoituksena on tukea pohjimmiltaan tervettä talouspolitiikkaa ja ehkäistä kriisin mahdollinen kärjistyminen varmistamalla etukäteen rahoituksen saanti rahoitusmarkkinoilla esiintyvien ongelmien varalta. Koska kyse on varautumisvälineestä ja tuen piiriin pääsulle asetetaan etukäteen talouspoliittisia kriteereitä, jälkikäteisehdollisuus voi olla astetta kevyempää kuin lainamuotoisessa tuessa. Varojen mitoituksen tulee olla riittävä markkinoiden luottamuksen saamiseksi.

Menettely käynnistyy siten, että asianomainen jäsenvaltio pyytää tukea EVM:n hallintoneuvoston puheenjohtajalta, joka antaa komissiolle ja EKP:lle tehtäväksi arvioida täyttääkö jäsenvaltio ennakolliselle tuelle asetetut kriteerit, rahoitukseen liittyviä riskejä ja mahdollisten korjaavien toimien tarvetta. Hallintoneuvosto päättää EVM:n esityksestä ennakollisen tuen myöntämisestä. Komissio, EKP ja tarvittaessa IMF laativat kyseisen maan kanssa yhteisymmärryspöytäkirjan ja EVM rahoitustukisopimuksen, jossa määritellään mahdollisesta ehdollisuudesta ja muista toimintamalleista tuen suhteen.

Tukimuodon ehdollisuus on siis ennen kaikkea ennakollista, mutta vaihtelee tapauskohtaisesti. Jos tukea saavan jäsenvaltion talouspolitiikka on jo ennalta terveellä pohjalla, ehdollisuus on kevyempää. Jos taas talouspolitiikassa on korjattavaa, tuelle asetetaan myös jälkikäteisehtoja. Tällöin komissiota ja EKP:ta kuullaan korjaavien toimien käyttöönotosta. Väline on aktivoitavissa vuoden ajan, minkä jälkeen se voidaan uusia kahdeksi puolen vuoden mittaiseksi jaksoksi. Asianomainen jäsenvaltio tekee aloitteen rahoitustuen aktivoinnista ja informoi EVM:ää tästä vähintään viikkoa aikaisemmin. Nostoerän suuruus määritellään alkuperäisessä päätöksessä. Sitä koskevat samat ehdot kuin yleensä lainamuotoisessa tuessa.

Komissio seuraa kyseisen maan talouskehitystä tehostetusti ennakollisen tuen aikana. Komissio, yhteistyössä EKP:n, valvontaviranomaisten ja tarvittaessa IMF:n kanssa, raportoi joka kolmas kuukausi johtokunnalle. Jos jäsenvaltio poikkeaa ehdoista tai ei enää täytä ennakollisen tuen kriteereitä, voi johtokunta EVM:n esityksestä keskeyttää rahoituksen. Tällöin siirrytään oletusarvoisesti lainamuotoiseen rahoitustukimenettelyyn, johon liitetään normaaliin tapaa makrotaloudellinen sopeutusohjelma.

Ensimmäisten tukivälinettä koskeva ohje

EVM:n ensimmäisten tukivälineestä määrätään EVM-sopimuksen 17 artiklassa. Artiklan mukaan EVM:n johtokunta antaa tukivälinettä koskevat yksityiskohtaiset ohjeet. Ohjeluonnoksessa määritellään ensimmäisten tukivälineen tavoitteita, käyttöönottoa, ensimmäisillä tehtäviä markkinaoperaatiota, edunsaajavaltiolta edellytettävän ehdollisuuden seuranta ja tukivälineen kautta hankittujen valtionvelkakirjojen hallinnointia.

Ensimmäisten tukivälineen tavoitteena on, että tukea saava valtio voisi pysyä markkinoilla ja että sen saama rahoitustuki olisi mahdollisimman kustannustehokasta. Ensimmäisten tukivälineellä voidaan myös tukea lainamuotoista tukea saaneen maan paluuta markkinarahoituksen piiriin sopeutusohjelman loppupuolella.

EVM-sopimus mahdollistaa ensimmäisten tukivälineen yhdistämisen edunsaajavaltiolle myönnettävään lainamuotoiseen tukeen tai ennalta varautuvaan rahoitusapuun. Tässäkin tapauksessa EVM:n hallintoneuvosto päättää ensin EVM:n esityksestä, myönnetäänkö kyseiselle maalle ylipäättään rahoitustukea. EVM:n johtokunta sen sijaan päättää toimitusjohtajan esityksestä, jos lainamuotoisen tuen tai ennakollisen tuen aktivoinnin yhteydessä maksettava rahoituserä toteutetaan ensimmäisten tukivälineiden myötä. Ehdollisuudesta sovitaan komission johdolla yksityiskohtaisesti yhteisymmärryspöytäkirjassa ja lopullisista joukkovelkakirjojen ostossa noudatettavista ehdoista päätetään EVM:n johdolla laadittavassa rahoitustukiohjelmassa.

Ensimmäisten tukivälineiden toteutetaan markkinahintaan joko joukkovelkakirjojen huutokaupoissa tai erikseen kootulle sijoittajaryhmälle kohdistetussa liikkeeseen laskussa. EVM:n osuus ei pääsääntöisesti saisi ylittää 50 prosenttia huutokaupattavien velkakirjojen määrästä. Tästä voidaan poiketa vain, jos liikkeeseenlasku näyttäisi muutoin epäonnistuvan ja ostettavien velkakirjojen määrä jäävän alle puoleen tarjotusta määrästä. EVM:n ostamat valtion velkakirjat voidaan myöhemmin a) myydä markkinoille takaisin, jos niiden kysyntä palautuu ja korko laskee, b) pitää EVM:n salkussa eräpäivään saakka, c) pitää EVM:n kaupintasalkussa ja myydä takaisin kyseiselle valtiolle markkinahintaan tai d) käyttää liikepankkien kanssa tehtäviin repo-operaatioihin EVM:n maksuvalmiuden hallinnan tukemiseksi.

Ohjeissa on keskeistä varmistaa ensimarkkinaohjelman kattava ja säännöllinen raportointi EVM:n johtokunnalle ja hallintoneuvostolle. Raportointijärjestelmän tulee mahdollistaa ensimarkkinaohjelmaa koskeva oikea-aikainen kansallinen käsittely ja eduskunnan tiedonsaanti.

Jälkimarkkinoiden tukivälinettä koskeva ohjeet

EVM:n jälkimarkkinoiden tukivälineestä määrätään EVM-sopimuksen 18 artiklassa. Artiklan mukaan EVM:n johtokunta antaa tukivälinettä koskevat yksityiskohtaiset ohjeet. Ohjeluonnoksessa määritellään vastaavat seikat kuin ensimarkkinaohjelmassa. Luonnoksessa ehdotetaan yksityiskohtaisia ensimarkkinaohjelmien tukivälineen käyttöönottoa, valtionvelkakirjojen jälkimarkkinoilla tehtäviä markkinaoperaatiota, edunsaajavaltiolta edellytettävän ehdollisuuden seuranta ja tukivälineen kautta hankittujen valtionvelkakirjojen hallinnointia koskevia määräyksiä.

Jälkimarkkinaohjelman käyttöönotto edellyttää EKP:n arviota rahoitusmarkkinoiden poikkeuksellisuudesta ja riskeistä koko euroalueen rahoitusvakaudelle. Joukkovelkakirjalainojen ostamisella jälkimarkkinoilta on tarkoitus tukea valtionlainamarkkinoiden toimintaa ja hinnoittelua tällaisissa poikkeusoloissa sekä poistaa epävarmuutta markkinoiden muodostuessa ohuiksi. Tuen käyttöön liittyvä ehdollisuus perustuu EKP:n analyysiin ja jäsenvaltioiden yhteiseen päätökseen, jonka taustalla ovat poikkeukselliset rahoitusmarkkinaolosuhteet ja rahoitusvakauteen kohdistuvat riskit. Väline voidaan ottaa käyttöön joko osana EVM:n muuta rahoitustukiohjelmaa tai erikseen. Edellisessä tapauksessa käyttö edellyttää asianomaiselta jäsenvaltiolta yhteisymmärryspöytäkirjassa sovittujen uudistustoimien toteuttamista. Jälkimmäisessä tapauksessa välineen käyttöönotto edellyttää lisäksi vakaus- ja kasvusopimuksen sitoumusten noudattamista, kestävä julkista velkaa, tasapainottomuusmenettelyn sitoumusten noudattamista, pääsyä kansainvälisille pääomamarkkinoille kohtuullisin ehdoin, kestävä ulkoista rahoitusasemaa sekä pankkisektorin vakavaraisuutta.

Jäsenvaltio esittää pyynnön jälkimarkkinaohjelman käynnistämisestä EVM:n hallintoneuvoston puheenjohtajalle. Puheenjohtaja pyytää EKP:tä laatimaan arvion rahoitusmarkkinoiden poikkeuksellisuudesta ja riskeistä koko euroalueen rahoitusvakaudelle. Komissio valmistelee parin päivän aikana yhdessä EKP:n ja kyseisen jäsenvaltion kanssa yhteisymmärryspöytäkirjan, jossa todetaan rahoituksen kesto, sopeutustarpeet sekä vaadittavat uudistukset. EVM:n toimitusjohtaja laatii jäsenvaltion kanssa yksityiskohtaisen rahoitustukisopimuksen. EVM:n hallintoneuvosto päättää edellä mainittujen asiakirjojen pohjalta, käynnistetäänkö jälkimarkkinaohjelma vai ei.

EVM:n jälkimarkkinoiden tukivälineen toimintaan liittyy keskeisenä kysymyksenä jälki-markkinoilla tehtävien markkinaoperaatioiden hallinnointi ja EVM:n jäsenvaltioiden edustajien osallistuminen siihen. Nämä seikat ovat edelleen avoinna myös Euroopan rahoitusvakausvälineen (ERVV) vastaavan jälkimarkkinaohjelman osalta. Valtioneuvosto on antanut eduskunnalle ERVV:n jälkimarkkinaohjelmaa koskevan selvityksen E 25/2012 vp.

Ensimarkkinaohjelman tavoin EVM:n ostamat valtion velkakirjat voidaan myöhemmin a) myydä markkinoille takaisin, jos niiden kysyntä palautuu ja korko laskee, b) pitää EVM:n salkussa eräpäivään saakka, c) pitää EVM:n kaupintasalkussa ja myydä takaisin

kyseiselle maalle markkinahintaan tai d) käyttää liikepankkien kanssa tehtäviin repo-operaatioihin EVM:n maksuvalmiuden hallinnan tukemiseksi.

Komissio arvioi yhdessä EKP:n kanssa yhteisymmärryspöytäkirjassa määritellyn ehdollisuuden toteutumista ja raportoi siitä säännöllisesti johtokunnalle. Poikkeama sovitusta ehdollisuudesta johtaa ohjelmaa koskevaan uuteen harkintaan. Harkinnan perusteella yhteisymmärryspöytäkirjaa ja ehdollisuutta voidaan muuttaa tai jälkimarkkinaostot keskeyttää kokonaan.

Rahoituslaitosten lainamuotoista pääomittamista koskeva ohje

EVM:n rahoituslaitosten pääomapohjan vahvistamiseksi myönnettävästä rahoitusavusta määrätään EVM-sopimuksen 15 artiklassa. Hallintoneuvosto voi päättää myöntää EVM:n jäsenvaltiolle lainoina annettavaa rahoitustukea, jonka nimenomaisena tarkoituksena on asianomaisen EVM:n jäsenen rahoituslaitosten pääomapohjan vahvistaminen. Ohjeluonnoksessa määritellään tarkemmin lainamuotoisen pääomituksen tavoitteet, ehdot ja maksatuksen edellytykset.

EVM:n myöntämässä lainamuotoisessa pääomituksessa tarkoituksena on säilyttää rahoitusmarkkinoiden vakaus paitsi koko euroalueella, myös jäsenvaltioissa. EVM:n rahoitustuki rajoittuu niihin tilanteisiin, joissa jäsenvaltion talouden ongelmat ovat lähtöisin nimenomaan rahoitussektorilta. Samanaikaisesti valtion taloudellisen tilanteen tulee olla sellainen, ettei se pysty itse pääomittamaan ongelmissa olevia rahoituslaitoksia ilman, että sen oma rahoitusvakaus merkittävästi kärsii. Laina myönnetään jäsenvaltiolle, joka kanavoi varat rahoituslaitokselle EVM:n kanssa sovitulla tavalla.

Rahoitustukea vastaanottavan rahoituslaitoksen tulee olla joko jäsenmaan tai koko euroalueen rahoitusjärjestelmän kannalta systeemisesti merkittävä. Merkittävyyden arvioinnissa käytetään kriteereinä esimerkiksi rahoituslaitoksen kokoa, verkostuneisuutta, monimutkaisuutta ja korvattavuutta.

Menettely käynnistyy siten, että asianomainen jäsenvaltio pyytää tukea joko yhdelle tai useammalle alueellaan toimivalle rahoituslaitokselle EVM:n hallintoneuvoston puheenjohtajalta. Puheenjohtaja antaa komissiolle ja EKP:lle sekä valvontaviranomaisille tehtäväksi arvioida, täyttäväkö pyyntö asetetut kriteerit rahoitusavun myöntämiselle. Arvioinnin valmistumisen jälkeen hallintoneuvosto tekee periaatepäätöksen lainan myöntämisestä. Komissio, EKP ja tarvittavat valvontaviranomaiset laativat kyseisen valtion kanssa yhteisymmärryspöytäkirjan ja EVM rahoitustukisopimuksen, jossa määritellään ehdollisuudet ja muut tuen käyttöä koskevat määräykset. Tuen ja sen ehtojen on kaikilta osiltaan oltava sopusoinnussa EU:n valtiontukisäännösten kanssa. Ennen kuin EVM voi maksaa tukea, komission on hyväksyttävä se EU:n perussopimuksen mukaisesti.

Komissio seuraa lainan kanavointia, käyttöä ja takaisinmaksua sekä rahoituslaitoksen tilannetta yhteistyössä EKP:n ja tarvittavien valvontaviranomaisten kanssa. Komissio välittää tiedot varojen käyttämisestä EVM:n hallintoneuvoston puheenjohtajalle, joka välittää tiedon hallintoneuvostolle.

Laina voidaan myöntää yhdessä tai useammassa erässä, jotka voivat edelleen jakaantua useampiin osasuorituksiin. Ensimmäistä erää seuraavien erien maksusta päättää EVM:n johtokunta toimitusjohtajan ehdotuksen perusteella.

EVM:n peruspääoman ja vararahastojen sijoituspolitiikkaa koskevat ohjeet

EVM:n peruspääoman ja vararahastojen sijoituspolitiikasta määrätään EVM-sopimuksen 22 artiklassa. EVM voi sijoittaa varat, joita ei välittömästi tarvita sen velvoitteiden täyttämiseen, raha- ja pääomamarkkinoille. EVM:n peruspääomasta ja vararahastoista katetaan sen toiminta- ja hallintokustannukset ja sen toiminnasta mahdolliset syntyvät tappiot.

Ohjeluonnoksessa määritellään tarkemmat sijoituspolitiikan ohjeet. EVM:n sijoituspolitiikan on oltava varovaista, jotta EVM:n tappioiden kattamiskyky ja luottokelpoisuus säilyy parhaana mahdollisena. Luonnoksessa ehdotetaan euroryhmän maaliskuussa 2012 tekemän periaatepäätöksen mukaisesti, että maksetun pääoman ja EVM:n liikkeeseen laskemien, takaisinmaksamattomien velkojen välisen suhteen on säilyttävä vähintään 15 prosentissa. Tämä merkitsee, että 80 miljardin euron peruspääoman markkina-arvo ei saisi missään tapauksessa laskea alle 75 miljardin euron, joka on 15 prosenttia EVM:n sovitusta 500 miljardin euron rahoitusapukapasiteetista.

Tämän tavoitteen varmistamiseksi 50 miljardia euroa maksetusta pääomasta sijoitettaisiin aina korkeimman mahdollisen luottoluokituksen omaaviin arvopapereihin. Tämän lisäksi maksettu pääoma jaetaan kahteen eri sijoituskoriin. Näistä ensimmäisen varat sijoitetaan laajalla hajautuksella lyhyen laina-ajan likvideihin arvopapereihin, jotka täyttävät ennalta määritellyt kriteerit. Ensimmäisen korin sijoitusten suuruus on enintään 5 miljardia euroa. Toinen sijoituskori maksetusta pääomasta ja vararahaston varat sijoitetaan myös laajalti hajauttaen, mutta hieman pidemmän laina-ajan arvopapereihin. Myös tämän korin keskeisenä tavoitteena on peruspääoman arvon säilyttäminen.

EVM-sopimuksen 22 artiklan mukaan toimitusjohtaja vastaa peruspääoman ja vararahaston sijoituspolitiikan toteuttamisesta. EVM:n johtokunta valvoo sijoituspolitiikan toteuttamista ja säännöllisesti tarkistaa sijoituspolitiikan toimintalinjoja.

EVM:n riskienhallinnan korkean tason periaatteet

EVM-sopimuksen 22 artiklassa määrätään myös, että EVM:n on noudatettava hyviä varainhoidon ja riskienhallinnan periaatteita. EVM:n yleiset riskienhallinnan periaatteet hyväksyy EVM:n johtokunta ja niitä tarkastellaan vuosittain uudelleen. EVM ottaa riskiä vain siinä määrin, kuin se on välttämätöntä kattaakseen toiminnan kulut ja mahdolliset tappiot, eikä sen pääasiallinen tavoite ole tuottaa voittoa.

Riskienhallinta organisaatiossa on hajautettu eri liiketoimintayksiköiden, riskinhallintayksikön sekä sisäisen tarkastuksen kesken. Riskinhallinnan johtaminen jakautuu kolmeen linjaan.

Ensimmäisen linjan muodostavat liiketoimintayksiköt, jotka ovat vastuussa päivittäisestä riskinotosta ja raportoivat riskinhallinnan johtajalle. Toisen linjan muodostavat johtokunta, toimitusjohtaja, riskinhallintayksikkö, riskinhallinnan johtaja sekä sisäinen riskikomitea. Johtokunta tarkastelee säännöllisesti altistumista eri riskeille ja hyväksyy riskinhallinnan periaatteet. Toimitusjohtaja laatii periaatteiden mukaisesti

riskienhallintapolitiikan, panee täytäntöön riskinhallinnan toimintalinjat ja raportoi toimeenpanon edistymisestä johtokunnalle. Riskinhallintayksikkö toimii itsenäisesti ja valvoo liiketoimintayksiköiden riskinottoa sekä arvioi liiketoiminnan riskejä. Riskinhallinnan johtaja toimii itsenäisesti muusta organisaatiosta ja osallistuu investointipäätösten tekemiseen. Riskikomitea koostuu johtoryhmän jäsenistä ja se määrittää riskirajat, joita ei tule ylittää, ja antaa riskinhallintaa koskevia suosituksia .

Kolmannen linjan muodostavat sisäiset tarkastajat, tilintarkastajat sekä tilintarkastuslautakunta. Sisäinen tarkastus avustaa johtokuntaa ja pitää huolta, että organisaatio toimii ohjeita noudattaen. Tilintarkistus suorittaa lakisääteisen tilintarkastuksen EVM-sopimuksen mukaisesti. Tilintarkastuslautakunta on hallintoneuvoston nimittämä elin, joka avustaa hallintoneuvostoa organisaation valvonnassa.

Eri riskityypit jaetaan kahteen ryhmään: taloudellisiin ja ei-taloudellisiin. Taloudellisiin riskeihin kuuluvat muun muassa korko-, valuuttakurssi-, osapuoli-, selvitys- ja rahoitusriskit. Ei-taloudellisiin riskeihin kuuluvat operatiivinen riski sekä lakien ja säännösten noudattamattomuuteen liittyvä riski. Riskinhallinnan tulee minimoida sekä taloudelliset että ei-taloudelliset riskit.

EVM:n osingonjakopolitiikka

EVM:n osingonjakopolitiikasta määrätään EVM-sopimuksen 23 artiklassa. Johtokunta voi päättää yksinkertaisella enemmistöllä jakaa osinkoa EVM:n jäsenille, jos maksetun osakepääoman ja vararahaston määrä ylittävät tason, joka on tarpeen lainanantokyvyn ylläpitämiseksi eikä tuottoja tarvita EVM:n suoritusten maksamiseen sen velkojille. Osinkoa maksetaan suhteessa maksettuun osakepääomaan. Niin kauan kuin EVM ei ole antanut rahoitusapua yhdellekään jäsenistään, maksetun pääoman sijoittamisesta saadut tuotot palautetaan jäsenvaltioille maksetun osakepääoman suhteessa sen jälkeen kun tuloista on vähennetty toimintakustannukset. Tosiasiallisen lainanantokapasiteetin on kuitenkin oltava aina käytettävissä kokonaisuudessaan.

Luonnoksessa EVM:n osinkopolitiikaksi määritellään tarkemmat toimintatavat osingonjaon osalta, mukaan lukien osinkojen käytännön maksuajat. Johtokunta hyväksyy lopulta osinkopolitiikan.

Kansallinen käsittely:

Valtiovarainministeriö
EU ministerivaliokunta 4.5.2012

Eduskuntakäsittely:

Suuri valiokunta

Käsittely Euroopan parlamentissa:

-

Kansallinen lainsäädäntö, ml. Ahvenanmaan asema:

-

Taloudelliset vaikutukset:

EVM:n rahoitusapuvälineitä koskevat ohjeet sekä sijoitus-, riskienhallinta- ja osingonjakopolitiikat tarkentavat ja täydentävät EVM:n perustamissopimusta teknisillä määräyksillä. Ne eivät lisää tai vähennä Suomen EVM:ään liittyviä vastuuta tai sitoumuksia. Erityisesti EVM:n peruspääoman ja vararahastojen sijoituspolitiikalla sekä sen riskienhallintapolitiikan periaatteilla on kuitenkin luonnollisesti merkitystä EVM:n toimintaan liittyviin riskeihin. EVM:n peruspääoman sijoituspolitiikan pitää olla erityisesti antolainaustoiminnan luonne huomioon ottaen varsin varovaista.

Suomessa EVM:n rahoitustukipäätösten hyväksyminen edellyttää aina eduskunnan myötävaikutusta. Samoin EVM:n pääoman muutokset edellyttävät EVM-sopimuksessa erikseen määrättyjä tappioiden kattamista ja maksukyvyttömyyden välttämistä koskevia tilanteita lukuun ottamatta aina eduskunnan nimenomaista hyväksyntää.

Muut mahdolliset asiaan vaikuttavat tekijät:

Hallitus antoi eduskunnalle 26.4. esityksen Euroopan vakausmekanismin (EVM) perustamisesta tehdyn sopimuksen hyväksymisestä ja laiksi sen lainsäädännön alaan kuuluvien määräysten voimaansaattamisesta (HE 34/2012 vp). EVM:n rahoitusapuvälineiden ohjeet sekä sijoitus-, riskienhallinta- ja osingonjakopolitiikat tarkentavat ja täydentävät EVM-sopimusta teknisillä määräyksillä. Valtioneuvosto on lisäksi aiemmin huhtikuussa antanut eduskunnalle EVM:n ohjesääntöä, hallintoneuvoston ja johtokunnan työjärjestyksiä sekä pääoman maksamista koskeviin ehtoihin liittyviä tarkentavia määräyksiä koskevan selvityksen E 47/2012 vp.

Euroryhmän työryhmän sihteeristön alustavan työsuunnitelman mukaan lähiviikkojen aikana jäsenvaltioille toimitetaan luonnokset myös seuraavista EVM:n toimintaa ohjaavista politiikkalinjoista ja muista hallinnollisista asioista:

- rahoitustuen hinnoittelua koskevat toimintaohjeet
- varainhankintaa (ottolainausta) koskevat toimintaohjeet
- varainhankintavälineiden liikkeeseenlaskuasiakirjat
- rahastojen perustaminen ja hallinnointi
- henkilöstön työehdot, eläkejärjestelmä ja verotus.

Nämä asiat tuodaan myös lähiviikkoina eduskunnan käsittelyyn vastaavalla tavalla.

Asiasanat

Hoitaa

VM

Tiedoksi

EK, VNEUS

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TÄMÄN MUISTION KÄSITTELYSSÄ
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ESM Guideline on Dividend Policy

Introduction

The ESM is an international financial institution based on authorized capital. The initial stock of authorized capital is set at EUR 700bn, of which EUR 80bn is paid-in capital. In addition to the 80bn paid-in capital, the ESM may also establish reserve funds in keeping with Article 24(1) of the ESM Treaty.

Any returns net of operating costs of the ESM due to its lending and investment operations shall be transferred to the reserve fund. In addition, payments due to financial sanctions from ESM Members violating measures laid out under the multilateral surveillance framework, the excessive deficit procedure, and/or the excessive imbalances procedure, shall be transferred to the reserve fund, in accordance with Article 24(1) of the ESM Treaty.

Dividend payments shall only be made from the reserve fund and shall not exceed the amount available at the end of the last budget year. Dividends are distributed *pro rata* to the contributions to the paid-in capital, taking into account the possible acceleration of payments (Art. 23(1) of the ESM Treaty).

1. Rules of dividend payments

a) Restrictions on dividend payments

In line with Article 23(1), dividends shall not be distributed during the phasing-in period during which the paid-in capital is built up; when the amount of paid-in capital and the reserve funds do not exceed the level required for the ESM to maintain its lending capacity, dividends shall be used to establish reserves to support the full lending capacity of the ESM.

In addition, dividend payments shall not be made during a period in which proceeds from the investment are required to avoid a payment shortfall to creditors (Art 23(1)). Therefore dividend payments will not be possible in case the early warning procedure, to be implemented under the ESM risk policy and referred to in the terms and conditions of capital calls, detects a risk of a payment shortfall or significant risk of a loss. The Board of Governors will be notified by the Managing Director, when a capital call under Article 9(3) of the Treaty is made, that no dividend payments will be permissible. After capital calls have been served and the emergency situation has been resolved, the Managing Director will inform the Board of Governors that the general option of dividend payments is reinvigorated.

b. Permissible dividend payments

In case the ESM has reached its full lending capacity and no financial assistance is provided to one of its Members, in line with to Article 23(2), proceeds from the investment of the ESM paid-in capital (or eventually from any established reserve funds) shall be returned to the ESM Members according to their respective contributions to the paid-in capital, after deductions for operational costs.

In case the ESM has provided financial assistance to one of its Members, the Board of Directors may decide by simple majority to distribute dividends after deductions of operational costs (Art. 23(1)). For ESM Members receiving financial assistance such payments shall be used to repay a portion of the financial assistance received or being deducted from future financing needs, or to answer a possible capital call of the ESM.

Such a decision on dividend payments shall be taken after a review of the maximum lending volume. The accumulation of reserves is a crucial mechanism to ensure that the long-term effective lending capacity of ESM remains aligned with economic and financial developments. This strategic role, rather than on-going business predominant in other financial institutions not set up as a crisis resolution mechanism, warrants that dividend disbursements are not made on the basis of short-term annual budgetary developments, but when the appropriate sizing of ESM in view of its strategic objective is considered.

According to Article 10, the Board of Governors shall review regularly and at least every five years the maximum lending volume and the adequacy of the authorised capital stock of the ESM. Accumulated reserves could help financing capital increases, via an instruction from the ESM Members to the Managing Director to affect dividends to an increase of the paid-in capital.

Following a decision on the review of the lending capacity, the Managing Director shall submit a proposal to the Board of Directors, assessing the capital requirements related the lending capacity in view of prudential and rating considerations. In addition, the Managing Director shall submit a proposal on the amounts of dividend payments. Based on this proposal, the Board of Directors shall decide on the amount of dividends to be disbursed from the existing reserves.

In case, ESM Members approve an enlargement of the lending capacity and an increase in the amount of paid-in capital, they shall authorize and instruct ESM prior to the disbursement of their respective dividends to use the amounts for the increase in their share of paid-in capital. Otherwise the dividends shall be transferred to the ESM Members. Transfers shall be made within the appropriate time period required to unwind investment positions, however, in any case not later than [three] months after the decision has been taken.

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**European Stability Mechanism
Guideline on the Secondary Market Support Facility**

**Article 1
Objective**

The Secondary Market Support Facility (SMSF) aims to support the good functioning of the government debt markets of ESM Members in exceptional circumstances where the lack of market liquidity threatens financial stability, with a risk of pushing sovereign interest rates towards unsustainable levels and creating refinancing problems for the banking system of the ESM Member concerned.

**Article 2
Eligibility**

1. Access to a SMSF is open to an ESM Member under a macro-economic adjustment programme to which an ESM loan has been granted, as long as it continues to comply with the policy conditions attached to the stability support.
2. Access to a SMSF may be open to an ESM Member outside of a macro-economic adjustment programme, as long as the Member's economic and financial situation remains sound and on the basis of a global assessment of the following criteria:
 - (a) Respect of the commitments under the Stability and Growth Pact. An ESM Member under excessive deficit procedure may still access a SMSF, provided it fully abides by the Council decisions and recommendations aimed at ensuring a smooth and accelerated correction of its excessive deficit.
 - (b) A sustainable general government debt.
 - (c) Respect of the commitments under the Macroeconomic Imbalances Procedure (MIP). An ESM Member under MIP may still access a SMSF, provided it is established that the Member remains committed to and capable of addressing the imbalances identified by the Council.
 - (d) A track record of access to capital markets on reasonable terms.
 - (e) A sustainable external position.
 - (f) The absence of bank solvency problems that would pose systemic threats to the stability of the euro area banking system or that of its Member States.

The beneficiary ESM Member shall ensure a continuous respect of the eligibility criteria and adopt where appropriate corrective measures in consultation with the European Commission and the ECB.

Article 3

Procedure of activation

1. An ESM member shall address a request to access the SMSF to the Chairperson of the Board of Governors. On receipt of such a request, the Board of Governors shall entrust:

(a) The ECB with the task to assess whether there are exceptional market circumstances and whether there is a risk to the financial stability of the euro area as a whole or of its Member States, unless the ECB has already submitted such analysis beforehand upon its own initiative.

(b) The European Commission, in liaison with the ECB, to assess whether the eligibility criteria set in Article 2 are fulfilled and negotiate with the ESM Member concerned a Memorandum of Understanding (MoU). The MoU shall be completed within 2 business days.

(c) The Managing Director to arrange a financial assistance facility agreement (FFA) in the form of SMSF, specifying the financial terms and conditions under which the secondary market purchases are to be conducted.

2. The Board of Governors, acting on a proposal from the Managing Director, shall decide to grant a SMSF. Upon approval by the Board of Governors, the MoU shall be signed by the Commission on behalf of the ESM and the FFA shall be signed by the Managing Director.

Article 4

Implementation of the SMSF

1. A technical sub-committee (TSC) shall be established to decide on the means of implementation of secondary market operations under the SMSF. Its composition and operating rules shall be set in an operational manual approved by the Board of Governors acting on a proposal from the Managing Director.

2. The TSC shall prepare an intervention strategy, establish pro-tempore intervention caps and decide on the daily instructions to be given to the portfolio managers.

3. The ESM Managing Director shall stop implementing secondary market operations upon a request of the ESM member concerned.

Article 5

Monitoring

1. The European Commission shall monitor, in liaison with the ECB, the compliance by the beneficiary ESM Member with the conditionality specified in the MoU and shall report to the Board of Directors.

2. The Managing Director shall forward a monthly report to the Board of Governors on the market effects of the SMSF.

3. In case (a) the assessment in paragraph 1 concludes that the beneficiary ESM Member deviates from its policy conditions or (b) the assessment in paragraph 2 concludes that the SMSF has become inadequate to contain the financial disturbance, the Board of Directors, acting on a proposal from the Managing Director, shall reconsider the adequacy of the SMSF.

Art 6

Management of the portfolio of bonds

The ESM Managing Director may decide:

- (a) To sell to the market the bonds purchased under a SMSF if the bond market of the beneficiary ESM member has returned to normal market functioning and if the sale of bonds is unlikely to affect the capacity of the beneficiary ESM Member to lodge its issuances on the primary market;
- (b) To hold the bonds purchased under a SMSF to maturity;
- (c) To keep the bonds purchased under a SMSF as available-for-sale and sell them back to the beneficiary ESM Member;
- (d) To use the bonds for repos with commercial banks to support the liquidity management of the ESM.

The beneficiary ESM member shall be informed of the choices made.

Article 7
Pricing

Pricing of an SMSF shall be based on the pricing policy adopted by the Board of Governors, as detailed in the pricing guideline.

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HIGH LEVEL PRINCIPLES FOR ESM RISK MANAGEMENT

- Preliminary Draft -

23th April 2012

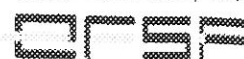


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Preface

On 24 June 2011, the European Council decided to establish a permanent crisis resolution mechanism – the European Stability Mechanism (ESM). The ESM will perform the same activities as the amended tasks of the European Financial Stability Facility (EFSF):

- provide loans to Member States in financial difficulties
- issue bonds or other debt instruments on the market to raise the funds needed
- perform operations in the primary and secondary Euro sovereign debt markets
- act to execute assistance in the context of a precautionary programme
- finance recapitalizations of financial institutions through loans to governments including in non-programme countries

The ESM will use a flexible funding strategy so as to ensure access to broad funding sources and enable it to extend financial assistance packages to Member States under various market conditions. Flexibility is achieved in applying a diversified funding strategy. The ESM does not have any currency limitation for its funding activities, but it is expected that the majority of funds would be raised in Euro. The ESM would need to convert the proceeds back into Euro.

Financial assistance from the ESM will in all cases be activated on a request from a Member State to the Chairperson of the ESM's Board of Governors. ESM loans to Member States will enjoy preferred creditor status in a similar fashion to those of the IMF, whilst accepting preferred creditor status of the IMF over the ESM (except for countries under a European financial assistance programme at the signing of the ESM treaty).

The ESM will have a total subscribed or callable capital of €700 billion, which corresponds to an effective lending capacity of €500 billion. Of this amount, €80 billion will be in the form of paid-in capital provided by the euro area Member States. In addition, the ESM will also dispose of committed callable capital from euro area Member States to a total amount of €620 billion. During the transitory phase from 2013 to 2014, Member States commit to accelerate, if needed, the provision of appropriate capital in order to maintain a minimum 15 per cent ratio between paid-in capital and the outstanding amount of ESM financed assistance. This capital will be invested according to an approved strategy, reflecting due caution and purpose.

The activities of ESM and its various instruments are described in separate documents and include the basic purpose and principles of engagement. These documents are part of the documentation set that will be available at the inauguration of the ESM as an International Institution.

The High Level Principles for Risk Management apply to the ESM as this allows easier evaluation of its soundness. However, it is clear that ESM and EFSF serve the same broad purpose: stabilizing the Euro. Although they are different in legal form, have been created at different times, and use a different method to achieve the highest possible rating as a way to ensure constant and broad access to funds, it is envisaged that the risk management policies of both institutions will be very similar. As the shareholders are identical and a single team would take care of operations for both entities, it is obvious that the risk management of the two entities would be strongly related. Therefore, the

guiding principles for EFSF should be highly similar, and the supporting systems will be identical. Details are likely to be different in one respect as the EFSF is leveraging sovereign guarantees and also has special purpose vehicles standing by to optimize use of available guarantees, whilst the ESM uses permanent capital as a risk buffer, and may over time also evolve its own methods to provide assistance.

The High Level Principles for Risk Management apply to the ESM only, as this allows easier evaluation of its soundness. Risk management of the EFSF and Special Purpose Vehicles (SPVs) is explicitly not addressed in this document, and will be documented at a later stage.

These High Level Principles are the governing part of a detailed documentation set, for the use of the ESM team to translate the principles in a complete and active risk policy.

1 Introduction

For the risk management of the ESM, the following guiding high level principles would apply.

1.1 Establishment

The High Level Principles are approved and amended by the Board of Directors of the ESM.

The documents shall be reviewed and refined annually, in order to reflect relevant industry standards, best practices.

1.2 Purpose

The High Level Principles for Risk Management (the “High Level Principles”) set out the main elements of risk management for the ESM:

- Philosophy
- Governance
- Types of risks and mitigations
- Reporting to the Board of Directors

The High Level Principles address tasks and responsibilities to identify, measure, monitor, and evaluate risks, set risk limits, escalate limit breaches and report risk exposure associated with activities conducted by the ESM.

1.3 Scope and application

The High Level Principles are complemented by comprehensive risk policy guidelines and procedures (the “Risk Policy”), containing technical provisions on risk management rules and procedures. Together, the two documents define the risk management framework of the ESM, which shall be shared, understood and applied by all relevant actors, including the Managing Director, senior management and operational staff.

2 Glossary

The following terms and definitions apply:

- Risk is the adverse (financial and non-financial) effect of uncertainty on the objectives of the organization.
- Risk aggregation is the sum of all risks within the organization.
- Risk analysis is the process to understand the risk and its evolution over time.
- Risk appetite is the amount and type of risk that the organization is willing to pursue or retain.
- Risk assessment is the overall process of risk identification and risk analysis.

- **Risk evaluation** is the process of comparing results of risk analysis with risk criteria to determine whether the risk and its magnitude are acceptable or tolerable.
- **Risk identification** is the process of recognizing and describing risks.
- **Risk management** is the set of activities spanning risk assessment, risk evaluation and risk reporting.
- **Risk management framework** includes components that provide the foundation and organizational arrangements for designing, implementing, monitoring, reviewing and continually improving risk management throughout the organization. The risk management framework of the ESM is defined by the documents “High Level Principles for Risk management of the ESM” and the “Risk Management Policy of the ESM”.
- **Risk management policy** is a document detailing the technical implementation of risk management with the organization.
- **Risk profile** is the overview of the total risk by types of risk.
- **Risk reporting** is the communication of relevant risk facts to decision makers and enables decision makers to make informed decisions on risk.
- **Risk manager** is a person who by virtue of expertise or authority has a leading role for the risk management process.
- **Business function** is an organization unit that forms a logical grouping of business processes and expertise.

3 Philosophy

3.1 Risk appetite

The risk appetite of the ESM is determined by quantifying minimum capital requirements, appropriate leverage on paid capital and a defined potential loss over a defined time horizon.

3.2 Prudent approach

The ESM assumes a prudent approach to risk-taking. The primary objective is to control risk, while preserving the economic interests of its shareholders and its capacity to provide assistance to euro area countries. As a consequence, the targeted risk profile must take into consideration its funding capacity and ensure the best attainable rating consistent with decisions of the Board of Directors is preserved.

Further, the ESM does not aim to generate profit on financial support granted to beneficiary Member States and does not provide incentives for speculative exposures.

3.3 Decentralized risk management

Given the compact size of the team and the purpose of the ESM, risk management is decentralized. This means that all staff should take responsibility of those risks associated with their tasks. The risk management is built upon three lines of defense: (1) a direct responsibility of the business line to manage and control risk within its responsibilities, (2) a risk management function exercising oversight across responsibilities and (3) independent assurance through internal audit of the whole entity. In applying decentralized risk management, a relatively lean central risk management function is supported by a central risk management system on the IT side, although within various functions, staff members are also performing multiple risk management activities.

The following characteristics apply to this decentralized philosophy:

- timely and accurate communication/reporting
- strong managerial involvement
- effective framework of internal procedures and guidelines
- monitoring and balances to enforce rules and procedures

As a consequence of this approach, risk management is closely integrated with business processes. Individual functions assume responsibility for risks in their respective operations. Business functions report to the risk management function which is responsible for oversight. The latter is done by ensuring soundness and consistent implementation of the risk management approach. Risk management also performs the activities of other functions relating to the ESM risk management on the aggregated level for the whole organization, such as integrated reporting. Finally, it assumes early warning, assessment and escalation of limit breaches, and proposes action to be taken.

3.4 Independence of the Risk Management Function

The Risk Management Function independently carries out its responsibilities. Independence reflects best industry practice to have clearly drawn lines of authority, segregated powers, and appropriate checks and balances across the organization. As a consequence, the Risk Management Function must develop and report its own judgment and is responsible for alerting management in case of breaches.

3.5 Strong risk culture

The risk culture is the combined set of individual and corporate values, attitudes, competencies and behavior that determine ESM's commitment to and style of risk management. In particular, the risk culture encompasses the general awareness, attitude and behavior of its employees to risk and the management of risk within the ESM. The main components are the following:

- Staff at all levels should clearly understand their responsibilities with respect to risk management.
- The ESM organizes procedures with clear lines of responsibility. Segregation of duties requires that more than one person is involved in completing a task.
- Risk management activities across the organization are carried out by a sufficient number of qualified staff with necessary experience, technical capabilities and adequate access to

- resources. Staff involved in risk management activities are free and willing to alert of any risk management breaches, whenever necessary.
- Management emphasizes high ethical standards at all levels. It sends a consistent message to the whole organization that is fully supportive of the risk management framework through their actions and words.

3.6 Application of multiple risk measures

No single risk measurements and assessments are perfect. To reflect this limitation, the ESM applies multiple risk tools for each type of risk, in order to capture both current and forward looking aspects, through the use of both quantitative and qualitative information.

3.7 Stress testing

Regular risk measurement shall be supplemented by stress tests covering all risk types. These tests will be designed according to the latest insights of similar institutions.

3.8 Continuous improvement

The ESM shall continuously strive to improve their risk management. Staff at all levels shall seek to achieve changes in processes in order to improve efficiency and quality of the ESM risk management on a day-to-day basis. Further, the ESM shall annually conduct a risk self-assessment in order to review the current state and progress of the risk management, and to identify measures for improvement.

3.9 Approval process for new tools and instruments

Introducing new tools or instruments, as well as significant changes to existing ones, follow an internally approved and well-documented "New Tool and Instrument Approval Policy".

The Risk Management Function prominently participates in the process of approving new tools or instruments or significant changes to existing ones. Careful analysis includes an assurance that the organization possesses adequate internal risk tools and expertise to understand and monitor the risks associated with them.

The Risk Management Function ensures compliance with this process whenever appropriate.

4 Governance

The governance explains the working of the various bodies and roles to ensure appropriate risk management. This is reflected in the three lines of defense. This approach is in line with current best practice in Risk Management.

4.1 First line of defense

The departments and business lines assume direct responsibility for the day-to-day management of risk and report regularly to the Head of Risk [See Illustrative Example: Risk management

responsibilities of business functions]. In addition, they stay within agreed limits, and notify using their own judgment of any unusual or strange incident or activity.

4.2 Second line of defense

The following principles apply for the various bodies and roles:

Board of Directors

The Board of Directors is accountable for the adequacy of the ESM's risk management framework. It is periodically informed of the aggregate figures of exposures and of eventual violations of the risk management framework, and the decisions and actions to mitigate risk taken when breaches occurred. The Board of Directors determines the risk appetite of the ESM by approving this document [see Illustrative Example: Risk Appetite]. It may require changes in the risk reporting. It delegates the approval of the Risk Policy itself to the Managing Director.

Managing Director

The Managing Director is responsible for implementation of the risk management framework, adequate reporting to the Board and for further developing the Policy.

Risk Management Function

The Risk Management Function is independent in the ESM organizational structure, but works in close cooperation with other functions of the ESM. It assesses and escalates breaches of limits, and recommends countermeasures to the Managing Director or staff concerned. It identifies aggregates, assesses and proposes alternatives to mitigate the overall risks borne by the organization. The Risk Management Function fosters a risk culture throughout the whole organization and for leading the work of the Internal Risk Committee. It validates monitoring tools and methodologies, and ensures consistent implementation.

Head of Risk

The Head of the Risk Management Function ("Head of Risk") ensures the comprehensiveness of the risk management framework. His roles and responsibilities are independent of and segregated from other executive functions and business line responsibilities. He accesses all information necessary to evaluate risk. He is also prominently part of investment decisions and approval process of new products. He chairs the risk committee and reports to the Managing Director.

Risk Committee

The Risk Committee is internal and composed of management board members. Members of the Internal Risk Committee act as a risk manager. The Head of Risk is the chairperson of the Internal Risk Committee. The Risk Committee translates the risk appetite into the internal limit structure, which is documented in the Risk Policy. It assists the Managing Director in ensuring the adequacy of the ESM's internal limit structure and limit setting, and in providing recommendations on changes of the

internal limit structure. It provides recommendations on identification of relevant risks, and on the suitability of methods to monitor and manage them.

The Internal Risk Committee conducts on a periodical basis a self-assessment and reports the results to the Managing Director. It makes suggestions to the Managing Director to undertake investigations on risk management (including outsourced activities) through either internal or external audit teams.

4.3 Third line of defense

The third line of defense includes the role of internal and external audit.

Internal Audit Function

The Internal Audit function is an independent function whose role is to provide to the Board of Directors a reasonable assurance that the organization is operating properly and efficiently. Internal Audit reports to the Managing Director and has also direct access to the Board of Auditors, in line with ongoing best practice.

External auditor

The external auditor performs its statutory duties conform with the applicable law and content of the ESM treaty. In this respect, a general appreciation on risk could be forwarded and will be taken into account by ESM Management.

Board of Auditors

The Board of Auditors is an independent function and appointed by the Board of Governors. It assists the Board of Governors in exerting oversight. It ensures that risk management, controls, governance, and activities in general of the ESM are conforming to sound practices and that financial information is correct. It relies on information from the Internal Audit Function and the External Auditors and any other functions from which it receives assurance of the accurateness and effectiveness of the internal control mechanism.

5 Types of risks and mitigations

5.1 Financial risks

Counterparty risk (default risk)

Counterparty risk is defined as the potential for loss arising from inability of a counterparty to fulfill its contractual obligations for full value when due or at any time thereafter. Credit risk is considered a particular form of counterparty risk and derives from the lending and support operations to Member States, investment of paid-in capital, placement of possible excess liquidity, and hedging operations.

Counterparty risk is minimized by implementing rules and procedures limiting investments to minimal credit standing requirements and/or using other mitigation techniques the management might retain appropriate and coherent with the High Level Principle as drafted in this document.

On the derivative contracts, ESM should limit itself to counterparties complying with minimum rating levels as defined by the criteria of international credit rating agencies detailed in the investment guidelines. Furthermore, it should enter into unilateral collateral agreements with those counterparties. Likewise, excess liquidity should be invested in high rated paper according to criteria detailed in the investment guidelines.

Settlement risk

Settlement risk is defined as the potential for loss arising from the failure of one or more counterparties to settle transactions in an exchange-for-value model when settlement of various portions of a transaction happens at different times. It is minimized by adopting novation procedures via clearing houses and/or adopting continuous linked settlements and/or using other mitigation techniques considered appropriate and coherent with the High Level Principles.

Credit concentration and correlation risk

Credit concentration risk is defined as the potential for loss arising from uneven exposure to a particular group of counterparties and correlation between individual exposures. It is minimized by limiting exposures by different group categories and/or using other mitigation techniques considered appropriate and coherent with the High Level Principles.

Funding liquidity risk

Funding liquidity risk is defined as the inability to raise money in a timely manner. This creates an inability of ESM to be unable to settle obligations in a timely fashion and be held in breach of obligations. It is minimized by maintaining multiple credit lines and/or maintaining minimal balance levels between current assets and current liabilities and/or using other mitigation techniques considered appropriate and coherent with the High Level Principles.

Market liquidity risk

Market Liquidity Risk is defined as the potential for loss arising from a position that cannot easily be unwound or offset at short notice without significantly negatively influencing the market price because of inadequate market depth or market disruption. It is minimized by adopting adequate measurements that allow the timely detection of liquidity deterioration and/or using other mitigation deemed appropriate and coherent with the High Level Principles.

Liquidity concentration risk

Liquidity concentration risk is defined as the potential loss arising from concentrations in assets and liabilities as major sources of liquidity. A concentration in assets can disrupt an institution's ability to generate cash in times of illiquidity or reduced market liquidity for certain asset classes. A liability

concentration (or funding concentration) exists when the funding structure of the institution makes it vulnerable to a single event or a single factor, such as a significant and sudden withdrawal of funds or inadequate access to new funding.

Interest rate risk

Interest rate risk is defined as potential for loss arising from adverse movements in interest rates. Main sources of interest rate risk include asset or liability repricing, triggered by covenants or market movements, yield curve shifts, asymmetrical payoff characteristics of instruments with embedded optionality, imperfect correlation in the adjustment of rates earned and paid, and changes in the funding or lending spread. It is minimized by adopting adequate instruments to transform fixed rate into variable rate positions and/or using other mitigation techniques, appropriate and coherent with the High Level Principles.

Foreign exchange risk

Foreign exchange risk is defined as the potential for loss arising from changes in exchange rates. It is minimized by limiting exposure to certain currencies and / or using adequate instruments for the mitigation and/or using other mitigation techniques appropriate and coherent with the High Level Principles.

5.2 *Non-financial risks*

Operational risk

Operational risk is defined as the potential loss, inability to fulfill its mandate or reputational damage resulting from inadequate or failed internal processes, people and systems or from external events. Operational risk includes legal risks, physical or environmental risks. Reputational damage is defined as the prospective negative impact on the ESM fulfilling its mandate derived from an adverse perception of ESM. Operational risk losses lead to P&L write downs, external costs incurred as a consequence of the event, specific provisions following the risk event, pending losses.

The ESM operational risk management focuses on proactive measures in order to ensure business continuity, accuracy of information used internally and reported externally, the expertise and integrity of the ESM's personnel and its adherence to established rules and procedures as well as on security arrangements to protect the physical infrastructure of the ESM. The ESM attempts to mitigate operational risks by following internal procedures for the assignment of duties and responsibilities among and within the business and support functions and by following a system of internal control and supervision.

The Risk Policy details processes, risk management tools and a full control infrastructure to ensure a very high level of control on the operational risks inherent to its activities. These should include general and specific procedures, permanent supervision, business continuity plans and functions dedicated to the oversight and management of specific types of operational risk such as fraud, risks pertaining to payment systems, legal risks, information systems security risks and non-compliance risks.

For the activities it outsources, the ESM should refer to best business practices on outsourcing within the financial sector and should implement methods and procedures compliant with those standards.

Compliance risk

Compliance risk is defined as the potential loss or adverse effect on reputation arising from non-conformity with laws, regulations, rules, related self-regulatory organization standards and codes of conduct. It is mitigated by adopting appropriate internal procedures and/or using other mitigation techniques. The Code of Conduct, as part of the legal framework, defines the fundamental ethical principles to be observed by the ESM's personnel. These include e.g. the requirement regarding the employee's integrity and loyalty, guidelines for handling conflicts of interest, prohibitions on insider trading, restrictions on financial interest and rules regarding information secrecy.

6 Reporting to the Board of Directors

The periodic risk reporting to the Board of Directors is inclusive of narrative sections explaining the risk profile evolution over the period under analysis [See Illustrative Example: Reporting to the Board of Directors]. The risk reporting informs about risk exposures at aggregate level, and provides a summary of breaches to the risk limits with the action taken to cope with the risk breaches to provide assurance regarding the compliance with the risk management framework.

Illustrative Example: Risk Appetite

[Risk Appetite - Table to be inserted here]

- minimal capital requirements
- maximal leverage on paid capital
- maximal tolerable potential loss over a defined time horizon
 - per day
 - per week
 - per month
 - per year

Illustrative example: Reporting to the Board of Directors

Frequency	Owner	Topic	Details
Quarterly	Research and Institutional Relations Function	Credit risk	- Overview of credit-quality indicators - Number of upgrades and downgrades in the classification
	Finance Function	Interest rate risk	Fixed income and currency positions
	Finance Function	Liquidity risk	Liquidity ratios
	Secretary General Function	Operational risk	- Overview on operational and outsourcing risks - Mitigation of operational risk
	Risk Management Function	Risk appetite and limits	- Utilization of board-approved risk appetite - Explanation of the breaches to the risk limits occurred during the period under analysis and action(s) taken
	Risk Management Function	Key figures of investment portfolio	Utilization of board-approved risk appetite
	Risk Management Function	Risk profile	- Evaluation of the preferred risk profile and the solvency need - Conclusions drawn from stress testing, including the effect of various scenarios, on expected losses and capital needs
Annual	Risk committee	Risk management framework and Risk self-assessment	Review of the overall framework, including consideration of whether any revisions are required and proposals for improvements of the risk management process
	Risk committee	Non-financial risks	Current status for non-financial risks and results of self-assessment.

Illustrative example: Risk management responsibilities of business functions

Business Function	Primary Responsibility	Details
Finance	Management of liquidity risk and interest rate risk	▪ Definition, development, and back testing of financial risk metrics and stress tests ▪ Measurement of financial risk on an on-going basis ▪ Ensuring that the planning of ESM operations on funding, lending and investment side are compliant with risk limits ▪ Daily reporting and monitoring of financial risks and communicating compliance check results to the Head of Risk ▪ Daily validation of ESM valuation reports via an independent middle office unit
Research and Institutional Relations Function	Management of credit risk and macroeconomic analysis	▪ Definition, development, and back testing of financial and credit risk metrics ▪ Measurement of credit risk on an ongoing basis and perform early warning on payment shortfalls ▪ Daily reporting and monitoring of credit risk and communicating compliance check results to the Head of Risk ▪ Perform macroeconomic research
Secretary General	Management of operational risk and IT risk	▪ Identification of operational risk and assessment of exposures ▪ Monitoring and reporting on operational and outsourcing risks ▪ Mitigation of operational risk ▪ Inform the Head of Risk on potential operational risks and proactively propose countermeasures for mitigating operational risks ▪ Communication and regular risk reporting to the Board of Directors, Board of Governors and shareholders ▪ Training and drill exercises ▪ Building and maintaining a contingency plan ▪ Ensuring the implementation of habilitation and delegation rules in the information system and the compliance with internal control rules

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European Stability Mechanism Guideline on Financial Assistance for the Recapitalisation of Financial Institutions

Article 1 Scope

1. The Board of Governors of the ESM may decide to grant financial assistance for the recapitalisation of financial institutions, in accordance with the provisions set out in Article 15 of the ESM Treaty.
2. Such assistance shall be provided in the form of a loan to an ESM Member, in accordance with Article 15(1) of the ESM Treaty. Funds shall be channelled to the beneficiary institution(s) by the ESM Member and their use implemented in accordance with this guideline as well as the provisions of the European Union's State-aid framework.
3. This particular tool is intended to address cases where financial or economic distress is anchored in the financial sector and not directly related to fiscal or structural policies. As such, financial assistance for the purpose of recapitalising financial institutions shall be granted to an ESM Member outside the confines of a macroeconomic adjustment programme.
4. This guideline is without prejudice to the possibility that an ESM Member can use funds provided by the ESM under a standard macroeconomic adjustment programme for recapitalising financial institutions. In such a case, an ESM Member shall continue to be subject to appropriate financial sector conditionality but under the terms and conditions established by the ESM Guideline on Loans and any relevant loan documentation.

Article 2 Aim of a loan for the purpose of recapitalisation

1. The loan granted to an ESM Member under this form of stability support shall be restricted for the specific purpose of supporting financial institutions while requiring fulfilment of appropriate conditionality, focused on the enhancement and viability of the financial sector as well as the institution(s) in question.

2. The aim of a loan for the purpose of recapitalising financial institutions is to preserve financial stability of the euro area as a whole and of its Member States by catering to those specific cases in which the roots of a crisis situation are primarily located in the financial sector; such assistance thus seeks to limit the contagion of financial stress by ensuring the capacity of a beneficiary ESM Member's government to finance recapitalisation at sustainable borrowing costs.

Article 3

Eligibility criteria

The following criteria shall be met for a request for financial assistance for the purpose of recapitalising financial institutions to be considered as eligible:

1. The beneficiary should demonstrate the existence of a lack of alternatives for recapitalising the financial institution(s) concerned: this should reveal an inability to meet capital shortfalls via private sector solutions (e.g., tapping new market investors or existing shareholders) and difficulty for the beneficiary ESM Member to recapitalise said institution(s) without incurring very adverse effects on its own financial stability.
2. The financial institution(s) concerned should have a systemic relevance or pose a serious threat to the financial stability of the euro area as a whole or of its Member States. Their systemic dimension shall be assessed taking into account, among other things, their size, interconnectedness, complexity, and substitutability.
3. The beneficiary ESM Member shall demonstrate its ability to reimburse the loan granted, even in cases in which it would not be able to recover the capital injected in the beneficiary institution(s) according to the timing agreed in relevant State-aid decisions. The size of the loan to be decided upon by the Board of Governors shall not jeopardize the fiscal position of the beneficiary ESM Member.

Compliance with these conditions shall be assessed in accordance with Article 4(2) prior to any decision, even in principle, to grant stability support via a loan for the purpose of recapitalising financial institutions.

Article 4

Procedures for granting support

1. An ESM Member shall direct its request to the Chairperson of the ESM Board of Governors. The request shall indicate the institution(s) in distress for which a financial assistance is being requested, the amount of capital needed, the type of securities to be used for the recapitalisation, and the result of a recent stress-test of the institution(s) concerned conducted by the national supervisor in liaison with the relevant European Supervisory Authority(s) (ESAs).
2. Upon receipt of such a request, the Board of Governors shall entrust the European Commission, in liaison with the ECB and the relevant ESA(s), to assess the respect of the eligibility conditions established in Article 3.

3. Based on the assessment in paragraph 2 and the Board of Governors, acting on a proposal from the Managing Director, shall decide whether the eligibility criteria are met, and, if so, to grant, in principle, the loan.
4. The European Commission shall then negotiate the conditionality that would be imposed on the institution(s) concerned under the European Union's State-aid framework. The European Commission shall also negotiate, in liaison with the ECB and where appropriate the relevant ESA(s), the other policy conditions related to the specific institution(s) concerned or the beneficiary's financial sector and its supervision, which shall be attached to the financial assistance and which shall be described in a Memorandum of Understanding (MoU).
5. The Managing Director shall prepare, in parallel, a financial assistance facility agreement detailing – without prejudice to the Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU) – the financial terms and conditions of the financial assistance. The agreement shall be adopted by the Board of Governors and signed by the Managing Director.

Article 5

Monitoring

1. Monitoring of compliance with institution-specific conditionality related to the European Union's State-aid framework shall be conducted by the European Commission.
2. Monitoring of the other policy conditions shall be conducted by the European Commission, in liaison with the ECB and the relevant ESAs (EBA, ESMA, EIOPA). The ESAs shall, have the right to conduct on-site inspections in any beneficiary financial institution(s) in order to adequately monitor compliance with the conditions, and share information relevant to the reporting on compliance with the European Commission and, the ECB. Where deemed necessary,, the monitoring institutions shall also be authorized to involve other relevant experts, such as external auditors or monitoring trustees.
3. The Commission shall provide without delay the Managing Director the information required to conduct an adequate due diligence with respect to the disbursement and use of funds established in the financial assistance agreement The Managing Director and the Commission shall inform the Board of Directors of any relevant development.
4. An additional assessment by the IMF of the implementation of international standards and supervisory practices shall be actively sought by the beneficiary ESM Member, during the period of implementation of the financial assistance.
5. The ESM shall establish an appropriate warning system, in accordance with Article 13(6) of the ESM Treaty, to ensure that it receives any repayments due by the ESM Member under the stability support in a timely manner.

Article 6

Disbursement of the loan

1. Recapitalisation loans shall be provided in one or more tranches, which may each consist of one or more disbursements.
2. Disbursements of tranches, subsequent to the first tranche, shall be made upon a decision, by mutual agreement, of the Board of Directors, following a proposal from the Managing Director and after having received the report conducted by the European Commission in accordance with its monitoring procedures – as laid out in Article 13(7) of the ESM Treaty.

Article 7

Pricing

Pricing of the loan shall be based on the pricing policy adopted by the Board of Governors, as detailed in the pricing guideline.

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ESM INVESTMENT POLICY GUIDELINES FOR PAID-IN CAPITAL AND RESERVE FUND

- Preliminary Draft -

23th April 2012

Preface

The paid-in capital of the European Stability Mechanism is defined in the Chapter 3 of the Treaty establishing the European Stability Mechanism signed on 2 February 2012; the reserve fund is defined in the article 24. The initial aggregate nominal value shall be EUR 80 000 million.

The Guidelines for the Investment Policy for ESM paid-in capital and reserve fund are approved by the Board of Directors to define the framework for ESM to carry out its paid-in capital and reserve fund investment management.

The Managing Director is responsible for implementing a prudent investment policy for the ESM, and for setting up the appropriate governance framework to meet this objective.

Investment objectives

Liquidity needs

The paid-in capital shall be used in line with article 25 of the Treaty to cover losses arising in the ESM operations as defined in Chapter 4, articles 14 to 18, and specifically any shortfall due to a non-payment by a beneficiary country.

Return

The paid-in capital shall in line with article 22 of the Treaty generate a return, part of which is to cover ESM operating and administrative costs. Proceeds from the investment of the ESM paid-in capital may also in the cases defined in article 23 be distributed to the ESM Members as dividends.

Minimum size of market value of the paid-in capital relative to the outstanding of ESM issuance

The paid-in capital shall not to be used to extend loans, but is aimed to ensure that the targeted effective lending capacity is fully available. As stated by the Eurogroup Statement of 30 March 2012, "In line with the ESM Treaty, the payment of the capital will be further accelerated if needed to maintain a 15% ratio between the paid-in capital and the outstanding amount of ESM issuances". The investment policy of ESM should therefore ensure that the paid-in capital market value exceeds a threshold of 15% compared to the outstanding amount of ESM issuances at any time, and this for a very high level of confidence. When the total amount of EUR 80 000 million paid-in capital is fully paid, fluctuations of the whole ESM capital market value should be contained so that it remains above an absolute threshold of EUR 75 000 million (= 15% of EUR 500 000 million), over a given period of time and for a very high level of confidence.

Creditworthiness of ESM

The paid-in capital shall in line with article 22 of the Treaty follow a prudent investment policy, so as to ensure ESM highest creditworthiness. To maintain this highest creditworthiness, an amount equivalent of 10% of the outstanding amount of ESM issuances at the time shall be invested in assets of the highest creditworthiness.

When the total amount of EUR 80 000 million paid-in capital is fully paid, the whole

ESM capital invested in assets of the highest creditworthiness should remain above an absolute threshold of EUR 50 000 million (= 10% of EUR 500 000 million).

Portfolio Structure

General Considerations

- The asset classes eligible under the Investment Policy for the ESM paid-in capital and reserve fund shall be based on two different criteria depending on the nature of the investment objectives:
 - Ability of the ESM to cover losses arising in the ESM operations, and maintaining the highest creditworthiness of the ESM: 'the General Eligible Assets List' (Annex 1)
 - Enhancement of diversification, and return: 'the Enlarged Eligible Assets List' (Annex 2).
- An appropriate level of diversification of the paid-in capital and the reserve fund shall be used to reduce the overall risk of the ESM.
- Derivatives shall be used in a prudent manner way, in order to fulfill the Investment Objectives of the ESM.
- The currency risk shall be hedged to Euro to ensure a limited remaining foreign exchange risk for the ESM.
- Appropriate governance framework, risk indicators and benchmarks shall be precisely defined to ensure the fulfillment of the Investment Objectives, and to allow the Board of Directors to monitor the paid-in capital investment management.

Paid-in capital Tranching

The ESM holds paid-in capital to meet multiple objectives. Each of these objectives has specific liquidity requirements and investment horizons. Consequently, the ESM paid-in capital is segregated operationally into separate sub portfolios, known as investment tranches. The structure and relative size of each tranche is based on the Investment Objectives: liquidity needs, return, minimum size relative to the outstanding amount of ESM issuances, and creditworthiness.

- Short-term tranche:

The main objective of the Short-term tranche is to allow the ESM to face any temporary disbursement to cover any shortfall due to a non-payment by a beneficiary country. The target size of this tranche shall be determined in line with the future payments due from the beneficiary countries over [6 months], with a minimum overall size of [EUR 5 000 million]. This tranche is invested in liquid investment instruments with a capital preservation objective at a [one-year] horizon.

The eligible assets of the Short-term tranche shall be compliant with the General Eligible Assets List.

- Medium/Long-term tranche :

The Medium/Long-term tranche as a main objective shall ensure the creditworthiness of the ESM and would be managed to enhance the return of the paid-in capital, as well as the reserve fund. The size of this tranche is the remaining amount of the paid-in capital after the constitution of the Short-term tranche.

The tranche shall be invested with a capital preservation objective at a [three-year] horizon, and a maximum loss of [2%] at a one-year horizon. This strict risk policy should allow the paid-in capital market value to fulfill the requirement of a 15% threshold compared to the outstanding amount of ESM issuances, without limiting ESM to undertake some additional risks to generate return.

To ensure the creditworthiness of the ESM, a minimum share of the Medium/Long Term Tranche shall be compliant with the General Eligible Assets List (to meet the minimum threshold of 10% of the outstanding amount of ESM issuances). The remaining amount would be compliant with the Enlarged Eligible Assets List.

The Managing Director periodically determines the respective appropriate size for the Short-term and Medium/Long term Tranches (including the two portfolios) in accordance with the ESM Investment Policy Guidelines.

Implementation

In line with article 22 of the Treaty, the Managing Director is responsible for the implementation of the Investment policy. It is his responsibility to:

- Organise periodic reviews of the ESM Investment Policy Guidelines for the Board of Directors, and of the results of the implementation of the Investment policy.
- Define the appropriate Governance framework, including the relevant Committees (such as an Investment Committee, and Risk Committee) and the relevant Documentation (such as a Code of Conduct, and the Investment Strategy and Rules).
- Implement the Investment policy based on relevant benchmarks for the above-mentioned portfolios, and the active risk budget.

More specifically, the Managing Director shall ensure a smooth implementation of the ESM Investment Policy Guidelines, when the paid-in capital will be paid. During this transitory period some temporary divergence to this targeted Policy shall be tolerated.

Annex 1

General Eligible Assets List

Investment Instruments	• Debt securities (mainly bonds, bills, covered bonds and commercial papers, certificates of deposit) • Secured deposits (repurchase agreements where ESM receive securities collateral as a guarantee of a placement) • Unsecured deposits (placement in money market instruments with no collateral)
Investment class	• European System of Central Banks • Sovereigns and their related debt management offices • Government related agencies • Supranational • Financial Institutions

Rating criteria	Minimum rating: highest rating, or if different, a long-term rating which is equal to or higher than the lowest long-term rating then assigned to ESM from each of the Rating Agencies
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Annex 2
Enlarged Eligible Assets List

Investment Instruments	• Debt securities (mainly bonds, bills, covered bonds and commercial papers, certificates of deposit) • Secured deposits (repurchase agreements where ESM receive securities collateral as a guarantee of a placement) • Unsecured deposits (placement in money market instruments with no collateral)
Investment class	• European System of Central Banks • Sovereigns and their related debt management offices • Government related agencies • Supranational • Financial Institutions
Rating criteria	For Euro Area: countries under programme are excluded For non-Euro Area: Minimum rating: highest rating, or if different, a long-term rating which is equal to or higher than the lowest long-term rating then assigned to ESM from each of the Rating Agencies

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European Stability Mechanism Guideline on Loans

Article 1

Aim

The objective of loans is to assist ESM Members that have significant financing needs but have to a large extent lost access to market financing, either because they cannot find lenders or because lenders will provide financing only at excessive prices that would adversely impact the sustainability of public finances. In order to ensure a return to full market financing and a sustainable economic and financial situation, all loans shall be subject to a macroeconomic adjustment programme that shall include appropriate conditionality prepared in agreement with the Commission, in liaison with the ECB and, where appropriate, the IMF.¹ The macroeconomic adjustment programme shall be approved by the Council, according to procedures established in EU law.

Article 2

Procedure

1. An ESM Member may address a request for stability support to the Chairperson of the Board of Governors. Such a request shall indicate whether a loan is to be considered as the financial assistance instrument to be used. On receipt of such a request, the Chairperson of the Board of Governors shall entrust the European Commission, in liaison with the ECB, with the following tasks:
 - (a) To assess the existence of a risk to the financial stability of the euro area as a whole or of its Member States.
 - (b) To assess whether public debt is sustainable. Wherever appropriate and possible, such an assessment is expected to be conducted together with the IMF;
 - (c) To assess the actual or potential financing needs of the ESM Member concerned.

¹ Loans for the purpose of recapitalising financial institutions are treated in a separate guideline.

2. On the basis of the request of the ESM Member and the assessment referred to in paragraph 1, the Managing Director shall prepare a proposal for the adoption by the Board of Governors whether to grant, in principle, stability support to the ESM Member concerned in the form of a loan.
3. If a decision is adopted pursuant to paragraph 2, the Board of Governors shall entrust:
 - (a) The European Commission – in liaison with the ECB and, wherever possible, together with the IMF – with the task of negotiating, with the ESM Member concerned, a memorandum of understanding (an "MoU") detailing the policy conditions attached to the loan. The content of the MoU shall reflect the severity of the weaknesses to be addressed and the fact that the financial instrument chosen is a loan. It shall include the details of the macroeconomic adjustment programme that shall specify the policy conditions to be applied to the support and implemented in the beneficiary ESM Member.
 - (b) The Managing Director of the ESM, with the task of preparing a proposal for a financial assistance facility agreement (FFA), including the financial terms and conditions of the loan, to be adopted by the Board of Governors.
4. The European Commission shall sign the MoU on behalf of the ESM, subject to prior compliance with the conditions set out in paragraph 4 and approval by the Board of Governors. The Managing Director of the ESM shall sign the FFA, subject to approval by the Board of Directors.
5. The European Commission – in liaison with the ECB and, wherever possible, together with the IMF – shall be entrusted with monitoring compliance with the policy conditionality attached to the loan.
6. The Board of Directors shall decide by mutual agreement, on a proposal from the Managing Director and after having received a report from the European Commission in accordance with Article 13(7) of the ESM Treaty, the disbursement of the tranches of the loan subsequent to the first tranche.

Article 3

Disbursement of loans

3. Loans shall be provided in one or more tranches, which may each consist of one or more disbursements.
4. The disbursement of the first tranche shall be decided by the Board of Directors together with the approval of the financial assistance facility agreement, in line with Article 13(5) of the ESM Treaty.
5. On a proposal by the Managing Director, the Board of Directors shall decide to make available subsequent instalments. This shall occur after having received a report from the European Commission on the compliance by the beneficiary Member with the conditionality attached to the assistance facility, in line with articles 13(7) and 16(5) of the ESM Treaty. To that effect, the Managing Director shall immediately inform the European Commission of a request for funds.

6. A disbursement of tranches may be made partially or entirely through primary market purchases, in line with the Primary Market Purchase Guideline adopted by the Board of Directors.

Article 4

Pricing

1. In line with Article 20 of the ESM Treaty, the ESM shall aim to fully cover its financing and operating costs and include an appropriate margin.
2. [Lending conditions for Member States subject to a macroeconomic adjustment programme shall be consistent with the lending conditions of the Financial Assistance Facility Agreements signed between the EFSF, Ireland and the Central Bank of Ireland on the one hand and the EFSF, the Portuguese Republic and Banco de Portugal on the other.]
3. The pricing of loans is further detailed in the Pricing Guideline adopted by the Board of Governors.

Article 5

Early warning system

The Managing Director of the ESM shall establish an appropriate early warning system, in accordance with Article 13(6) of the ESM Treaty, to ensure that the ESM receives any repayments due by the ESM Member under the stability support in a timely manner.

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European Stability Mechanism Guideline on Precautionary Financial Assistance

Article 1

Aim and scope

The objective of precautionary financial assistance is to support sound policies and prevent crisis situations by allowing ESM Members to secure the possibility to access ESM assistance before they face major difficulties raising funds in the capital markets. Precautionary financial assistance aims at helping ESM Members whose economic conditions are still sound to maintain continuous access to market financing by reinforcing the credibility of their macroeconomic performance while ensuring an adequate safety-net.

Article 2

Types of precautionary financial assistance

1. Precautionary financial assistance may be provided via a Precautionary Conditioned Credit Line (PCCL) or via an Enhanced Conditions Credit Line (ECCL). A PCCL and an ECCL credit line can be drawn via a loan or a primary market purchase. Both types of credit line shall have an initial duration of one year and shall be renewable twice, each time for six months.
2. Access to a PCCL shall be based on pre-established conditions and limited to ESM Members where the economic and financial situation is still fundamentally sound. A global assessment shall be made on whether a potential beneficiary ESM Member qualifies for a PCCL, using as a basis the following criteria:
 - (g) Respect of the commitments under the stability and growth pact. An ESM Member under excessive deficit procedure may still access a PCCL, provided it fully abides by the Council decisions and recommendations aimed at ensuring a smooth and accelerated correction of its excessive deficit.
 - (h) A sustainable general government debt.
 - (i) Respect of the commitments under the excessive imbalance procedure (EIP). An ESM Member under EIP may still access a PCCL, provided it is established that it remains committed to and capable of addressing the imbalances identified by the Council.
 - (j) A track record of access to international capital markets on reasonable terms.
 - (k) A sustainable external position.

- (l) The absence of bank solvency problems that would pose systemic threats to the stability of the euro area banking system.
3. The beneficiary ESM Member shall ensure a continuous respect of the eligibility criteria after the PCCL is granted, which shall be monitored by the European Commission, in liaison with the ECB.
4. Access to an ECCL shall be open to ESM Members that do not comply with some of the eligibility criteria required for accessing a PCCL but whose general economic and financial situation remains sound. The beneficiary ESM Member shall, after consultation of the European Commission and of the ECB, adopt corrective measures aimed at addressing the above-mentioned weaknesses and avoiding any future problems in respect of access to market financing, while ensuring a continuous respect of the eligibility criteria which were considered met when the credit line was granted. The monitoring of the respect of the eligibility criteria and of any corrective measures shall be ensured by the European Commission, in liaison with the ECB, in line with the provisions foreseen in Article 5.

Article 3

Procedures for granting precautionary financial assistance

In order to benefit from an ESM credit line, the request by the ESM Member shall follow the following steps:

1. An ESM Member shall make a request for precautionary financial assistance to the Chairperson of the ESM Board of Governors. On receipt of such a request, the Chairperson of the Board of Governors shall entrust the European Commission, in liaison with the ECB, with the following tasks:
 - (a) to assess the existence of a risk to the financial stability of the euro area as a whole or of its Member States;
 - (b) to assess whether general government debt is sustainable. Wherever appropriate and possible, such an assessment shall be conducted together with the IMF;
 - (c) to assess the actual or potential financing needs of the ESM Member concerned.
2. In addition, the European Commission shall be requested to assess whether the ESM Member concerned meets the conditions for accessing a PCCL or an ECCL as set out in Article 2(2) and 2(4), respectively. In parallel, the Managing Director shall prepare a proposal for the financial assistance. On a proposal from the Managing Director and based on the analysis of the European Commission, done in liaison with the ECB, the Board of Governors may decide to grant precautionary financial assistance in the form of a PCCL or in the form of an ECCL as well as its amount and duration.
3. The Board of Governors shall entrust the European Commission – in liaison with the ECB and, wherever possible, together with the IMF – with the task of negotiating, with the ESM Member concerned, an MoU detailing the conditions attached to the precautionary financial assistance. The European Commission shall sign the MoU on behalf of the ESM subject to prior approval by the Board of Governors.

4. The Managing Director of the ESM shall prepare, in parallel, a proposal for a precautionary financial assistance facility agreement detailing the financial terms and conditions of the assistance. The agreement shall be approved by the Board of Governors and signed by the Managing Director.

Article 4 ***Activating a credit line***

1. The activation of the credit line shall be at the initiative of the beneficiary ESM Member. The Member shall have the flexibility to request the draw-down of funds at any time during the availability period of the credit line according to the agreed terms. It shall inform the ESM at least a week in advance of its intention to draw funds, depending on the intended size.
2. The maximum size of a tranche or primary market purchase shall be set in the initial decision to grant a credit line.

Article 5 ***Enhanced surveillance***

1. Where an ECCL is granted or a PCCL drawn, the ESM Member shall be subject to enhanced surveillance by the European Commission for the availability period of the credit line. An ESM Member under enhanced surveillance shall, in consultation and cooperation with the European Commission, acting in liaison with the ECB, the European Supervisory Authorities (ESA) and the European Systemic Risk Board (ESRB), and where appropriate the IMF, adopt measures aimed at addressing the sources or potential sources of difficulties.
2. On a request from the European Commission, the ESM Member under enhanced surveillance shall:
 - a) Provide the ESM with all necessary information required for the execution of its lending activity and related risk management, such as monthly information regarding its financial condition, cash balance and other key information that would usually be provided for facilities of this type and any of the information mentioned in points (b) to (g);
 - b) Communicate to the European Commission, the ECB, and the relevant ESA(s) at the requested frequency disaggregated information on developments in its financial system. The European Commission, the ECB, and the relevant ESA(s) shall preserve the confidentiality of the disaggregated data received;
 - c) Carry out, under the supervision of the relevant ESA(s), stress test exercises or sensitivity analyses as necessary to assess the resilience of the financial sector to various macroeconomic and financial shocks, as specified by the European Commission and the ECB in liaison with the relevant ESA(s) and the ESRB, and share the detailed results with them;
 - d) Be subject to regular assessments of its supervisory capacities over the banking sector in the framework of a specific peer review carried out by the relevant ESA(s);

- e) Carry out and report on a comprehensive independent audit of the accounts of the general government conducted in coordination with national supreme audit institutions, aiming at assessing the reliability, completeness and accuracy of these public accounts for the purposes of the excessive deficit procedure. In this context, the European Commission (Eurostat) shall assess the quality of data reported by the beneficiary ESM Member in accordance with Regulation (EC) No 679/2010;
 - f) Provide additional information for the purposes of monitoring the progress towards the correction of the excessive deficit.
3. The European Commission shall conduct, in liaison with the ECB and the ESA(s) as needed, and where appropriate the IMF, regular review missions in the ESM Member under surveillance to verify the progresses made in the implementation of the adopted measures. It shall communicate, every quarter, its findings to the Board of Directors and assess notably whether further policy measures are needed.

Article 6

Re-examination of the adequacy of the precautionary financial assistance

1. The adequacy of the precautionary financial assistance shall be assessed on a proposal from the ESM Managing Director based on the findings referred to in Article 5(3) or, where a PCCL has been granted but not drawn, the results of the regular EU multilateral surveillance procedure. The Board of Directors shall decide on the basis of this proposal whether the credit line should be maintained.
2. In case the beneficiary ESM Member deviates from its policy conditions or if those commitments have become clearly inadequate to resolve the threat of financial disturbance, the Board of Directors may decide to close the credit line. The beneficiary ESM Member shall then be expected to request a regular stability support.
3. After the beneficiary ESM Member has drawn funds for the first time via a loan or a primary market purchase, the Board of Directors shall decide on a proposal from the Managing Director and based on an assessment conducted by the European Commission, in liaison with the ECB, whether the credit line continues to be adequate or whether another form of financial assistance is needed. In case the Board of Directors concludes that another form of financial assistance is needed, the beneficiary ESM Member is expected to initiate a request for this other form of financial assistance in accordance with the procedure outlined in Article 13 of the ESM Treaty and the guidelines for the relevant form of financial assistance.

Article 7

Pricing

Pricing of the precautionary financial assistance shall be based on the pricing policy adopted by the Board of Governors, as detailed in the pricing guideline.

Article 8

Early warning system

The Managing Director of the ESM shall establish an appropriate early warning system, in accordance with Article 13(6) of the ESM Treaty, to ensure that the ESM receives any repayments due by the ESM Member under the stability support in a timely manner.

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Terms and conditions of capital calls for ESM

Introduction

The ESM is an international financial institution based on authorized capital. The amount of authorized capital is set at EUR 700bn, of which EUR 80bn shall be paid in initially. ESM Members shall meet all capital calls on a timely basis in accordance with the terms set out in the Treaty (Article 8(4)). Capital calls can be launched under different conditions. Article 9 considers

- General capital calls
- Capital calls to restore the level of paid-in capital
- Capital calls to avoid default.

The terms and conditions of each type of capital call are set out below.

2. Initial level of paid-in capital and general review (Articles 8(2) and 41)

The Treaty sets the initial stock of authorized capital to be paid-in by ESM Members at EUR 80bn. According to Article 41, payment of paid-in shares of the amount initially subscribed by each ESM Member shall be made in five annual instalments of 20 % each of the total amount. The first instalment shall be paid by each ESM Member within fifteen days of the date of entry into force of this Treaty. The remaining four instalments shall each be payable on the first, second, third and fourth anniversary of the payment date of the first instalment.

According to Article 41(3), an ESM Member may decide to accelerate the payment of its share of paid-in capital. On 30 March 2012, the Eurogroup declared that ESM Members intend to effectively accelerate the payment of the initial tranches, with a second tranche being paid in October 2012, the subsequent two tranches in the course of 2013 and the final tranche in the first half of 2014. Finland will pay in its entire contribution to the EUR 80bn paid-in capital in one instalment, when the first tranche is due.

Moreover, during the five-year period of capital payment by instalments, ESM Members moreover shall accelerate the payment of paid-in shares, in a timely manner prior to the issuance date, in order to maintain a minimum 15 % ratio between paid-in capital and the outstanding amount of ESM issuances and guarantee a minimum combined lending capacity of the ESM and of the EFSF of EUR 500bn (Article 41(3)).

The stock of paid-in capital set in Article 8(2) can moreover be adjusted any time. Such a revision may occur in view of the adjustment of the authorized capital stock. According to

Article 10, the Board of Governors shall review regularly and at least every five years the maximum lending volume and the adequacy of the authorised capital stock of the ESM. It may decide to change the authorised capital stock and amend Article 8 and Annex II specifying the capital contributions accordingly. An adjustment of the amount of paid-in capital may also occur at any time irrespective of a change in the amount of authorized capital, among others, for prudential reasons.

3. General capital calls (Article 9(1))

Under Article 9.1, the Board of Governors, acting by mutual agreement may call in authorized capital any time. Unless otherwise foreseen in the Treaty or specified in these terms and conditions, capital calls for the payment of initial capital and related to the revision of the lending capacity as mentioned in Article 10 shall be conducted on the basis of Article 9.1. This does not apply to the acceleration of capital according to Article 41(2).

Approval procedure

A capital call under Article 9.1 shall be based on the proposal of the Managing Director to the Board of Governors. The proposal shall outline the objective of the capital call, the precise amounts and contributions of shareholders, and a proposed payment date or schedule. This proposal shall be sent to Governors at least [3] weeks ahead of the Board of Governors meeting where the item is scheduled to be approved.

Unless otherwise specified herein, the procedures for the preparation of the meeting, voting and documentation have to follow the provisions in the Treaty, the by-laws and the rules of procedure for the Board of Governors. According to Article 5(6)(c), decisions to call in capital pursuant of Article 9(1) can only be adopted by mutual agreement.

Payment

An appropriate schedule shall be set for the payment date which shall not exceed [3] months

Payments shall be made in cash.

Moreover, payments shall be made on a pro-rata basis in accordance with the contribution key referred to in Article 11.

According to Article 4(8), if any ESM Member fails to pay any part of the amount due in respect of its obligations in relation to paid-in shares or calls of capital under Articles 8, 9 and 10 such ESM Member shall be unable, for so long as such failure continues, to exercise any of its voting rights. The voting thresholds shall be recalculated accordingly.

Acceleration by ESM Member

An ESM Members may accelerate its payment of capital on its own initiative without a capital call being launched. The ESM Member shall notify the ESM and the other ESM members at least [7] days in advance of such accelerated payment.

3. Capital calls to replenish paid-in capital (Art 9.2)

Capital calls may also be made by the Board of Directors, acting by simple majority, under Article 9(2) in order to cover losses arising in the ESM operations. Article 25 stipulates that such losses should be charged,

- (a) firstly, against the reserve fund;
- (b) secondly, against the paid-in capital; and

(c) lastly, against an appropriate amount of the authorised unpaid capital, which shall be called in accordance with Article 9(3).

Approval procedure

A capital call under Article 9(2) shall be based on a proposal of the Managing Director to the Board of Directors. The proposal shall specify the losses to be covered in relation to the level of paid-in capital (set by Article 8(2) or adjusted afterwards in accordance with Article 10), the timeline required to replace the capital base in order to avoid

- a) a reduction in the lending capacity,
- b) emergency calls, or
- c) a credit rating action.

The Managing Director would propose a call of capital under Article 9(2), firstly, if paid-in capital has been used in line with Article 25 to cover a shortfall due to a non-payment by a beneficiary country.

Secondly, temporary fluctuations of the capital value may occur due to market prices. The investment strategy of ESM should ensure, for a very high level of confidence, that the paid-in capital market value will exceed a threshold of 15% compared to the outstanding amount of ESM issuance at the time. When the total amount of EUR 80bn paid-in capital is paid, fluctuations of the whole ESM capital value should be contained so that it remains above an absolute threshold of EUR 75bn (EUR 75bn = 15% of EUR 500 bn), over a giving period of time and for a very high level of confidence. Therefore, the Managing Director would not propose to make any capital calls under Article 9.2 as long as temporary market developments affect the value of capital investments within this limit, but only in the unlikely case that the limit is breached. *[Note: This paragraph is preliminary and may be discussed jointly with the investment strategy and adjusted]*

The proposal shall specify the precise amounts and contributions of shareholders, and a proposed payment date. It must be sent to the Directors at least [2] weeks ahead of the Board of Directors meeting, where the item is scheduled to be approved.

Unless otherwise specified herein, the procedures for the preparation of the meeting, voting and documentation have to follow the provisions in the Treaty, the by-laws and the rules of procedure of the Board of Directors. According to Article 9(2), decisions to call in capital to cover losses can be adopted by simple majority.

Payment

An appropriate deadline should be set for the payment date which shall not exceed [2] months the Board of Directors shall specify the terms and conditions of payment in accordance with the same rules as specified above for capital calls made under Article 9(1).

In addition, in accordance with Article 25(2), if an ESM Member fails to meet the required payment under a capital call made pursuant to Article 9(2), a revised increased capital call shall be made to all ESM Members with a view to ensuring that the ESM receives the total amount of paid-in capital needed. This call shall be made by grossing up the contribution rate of the remaining ESM Members on a pro-rata basis, unless agreed otherwise by the ESM

Members. The renewed call shall be completed as closely as possible to the original payment date.

The Board of Governors shall decide an appropriate course of action for ensuring that the ESM Member concerned settles its debt to the ESM within a reasonable period of time. The Board of Governors shall be entitled to require the payment of default interest on the overdue amount (Article 25). The default interest rate shall be set at the weighted average interest rate of the ESM Members serving the portion of the capital payments plus [50]bp.

When an ESM Member settles its debt to the ESM the excess capital shall be returned to the other ESM Members in proportion to the initial payment contribution provided to cover the shortfall. The same approach should apply to the distribution of the returns from the default interest payments.

4. Emergency capital calls (Art 9.3)

Finally, capital calls have to be made in accordance with Article 9(3) if needed to avoid a default of any scheduled or other payment obligation due to ESM creditors. When a potential shortfall in ESM funds is detected, the Managing Director shall make such capital call(s) as soon as possible with a view to ensuring that the ESM shall have sufficient funds to meet payments due to creditors in full on their due date. The Managing Director shall inform the Board of Directors and the Board of Governors of any such call.

Procedure

The ESM will establish an internal risk committee in the ESM governance structure, which shall regularly review the liquidity position and the planned repayment of loans, at least over the next quarter.

The risk committee shall form a view on market conditions and the financial situation of the borrower and assess the planned repayment schedule against likely scenarios taking into account the information provided by external parties (e.g. the Commission). If the risk committee concludes that there may be a doubt on timely repayment which could lead to a payment default by ESM, it shall notify the Managing Director, who in turn shall immediately inform the Board of Directors of this warning. The Managing Director will also indicate possible provisions or corrective measures, if feasible. Once a warning has been launched the Managing Director shall regularly update the Board of Directors on the situation of the borrower and market conditions, as well as any corrective measures taken.

In case the Managing Director concludes that a default would be inevitable, he shall launch the capital call in accordance with Article 9(3) and provide the necessary evidence on the financial situation of the ESM and the outcome of the measures taken to prevent the call.

Payment

The Managing Director shall specify the terms and conditions of payments in accordance with the same rules as specified above for capital calls under Article 9(2), except that ESM Members irrevocably and unconditionally undertake to pay on demand any capital call made on them by the Managing Director pursuant to Article 9(3) to be paid within seven days of receipt.

In addition, if an ESM Member fails to meet the required payment under the capital call made pursuant of Article 9(3), the procedure of Article 25(2), as described in section 3 above, shall apply.

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24.04.2012

European Stability Mechanism Guideline on the Primary Market Support Facility

Article 1 Objective

The ESM may engage in Primary Market Purchases (PMP) of bonds or other debt securities issued by ESM Members as a complement to (a) regular loans under a macroeconomic adjustment programme within the meaning of Article 12(1) of the ESM Treaty or (b) to draw-downs of funds under precautionary financial assistance pursuant to Article 14 of the Treaty. The main objective of a PMP shall be to allow the ESM Members to maintain or restore their market access.

Article 2 Procedure for using PMP for the disbursement of a loan

1. An ESM Member to which a stability support in the form of a loan has been granted pursuant to the relevant ESM guideline shall inform the ESM Board of Directors of its intention to have one or several tranches under a loan facility disbursed via primary market purchases.
2. On a proposal from the Managing Director, the Board of Directors shall allow the disbursement under a loan facility via primary market purchases, after having received a report by the European Commission on the compliance by the beneficiary Member with the conditionality attached to the assistance facility. The proposal from the Managing Director shall contain an analysis of the expected market effects of the use of a PMP.
3. The Managing Director shall agree with the beneficiary ESM Member the detailed modalities for carrying out the PMP. This agreement shall be updated regularly with a view to taking into account the evolution of the market situation of the beneficiary ESM member.
4. Notwithstanding paragraph 2, a PMP shall not be conducted if the Managing Director concludes that the participation of private investors would be insufficient to comply with the minimum participation mentioned in Article 4 or that the rate would be excessively above the reference funding rate. Where appropriate, the purchase of bonds shall then be replaced by a regular disbursement of the loan.

Article 3
Procedure for using PMP for drawing-down funds under a credit line

1. An ESM Member to which a stability support in the form of a credit line has been granted pursuant to the relevant ESM guideline shall inform at least a week, or as otherwise agreed in the facility agreement, in advance the ESM Board of Directors of its intention to draw-down funds via primary market purchases.
2. On a proposal from the Managing Director, the Board of Directors shall allow the draw-down of funds via a PMP. The proposal from the Managing Director shall contain an analysis of the expected market effects of the use of a PMP.
3. The Managing Director shall agree with the beneficiary ESM Member the detailed modalities for carrying out the PMP. This agreement shall be updated regularly with a view to taking into account the evolution of the market situation of the beneficiary ESM member.
4. Notwithstanding paragraph 2, a PMP shall not be conducted if the Managing Director concludes that the participation of private investors would be insufficient to comply with the minimum participation as specified under Article 4 or that the rate would be excessively above the reference funding rate. Where appropriate, the purchase of bonds shall then be replaced by a regular draw-down of funds.

Article 4
Implementation of the primary market purchases

PMP shall, as a rule, be conducted at market price. The Managing Director shall implement to implement it in view of the issuance approach taken by the ESM member:

(a) Via a participation in auctions, at the average weighted price of the auction. The amount purchased by the ESM shall, as a rule, be limited to a maximum of 50% of the final issued amount. This proportion shall, however, be increased if market bids at acceptable prices are insufficient, with a view to ensuring that the amount sold by the beneficiary ESM Member is equivalent to at least half of the originally targeted amount.

or

(b) Via participation in syndicated transactions, at the re-offer price. The amount purchased by the ESM shall, as a rule, be limited to a maximum of 50% of the final issued amount. This proportion shall, however, be increased if the order book is insufficient, with a view to ensuring that the amount sold by the beneficiary ESM Member is equivalent to at least half of the originally targeted amount.

Article 5
Management of the portfolio of bonds

After the purchase of notes from the beneficiary ESM Member, the Managing Director of the ESM may decide:

- (e) To sell to the market the bonds purchased under a PMP if the bond market of the beneficiary ESM Member has returned to normal functioning and if it is unlikely to effect the capacity of the ESM Member to lodge its issuances on the primary market;
- (f) To hold the bonds purchased under a PMP to maturity;
- (g) To keep the bonds purchased under a PMP and sell them back to the beneficiary ESM Member;
- (h) To use the bonds for repos with commercial banks to support the liquidity management of the ESM.

Article 6
Pricing

1. Pricing shall be in line with the pricing guideline of the ESM.
2. The financial terms and conditions under which the bond purchase is conducted shall be specified in a financial assistance facility agreement, including the terms for returning possible profits to the ESM member.