



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 20 July 2012**

**12569/1/12  
REV 1**

**ECOFIN 705  
UEM 266**

**“I” ITEM NOTE**

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From: General Secretariat of the Council  
To: COREPER

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Subject: Decision of the Representatives of the Governments of the Member States of the European Union, meeting within the Permanent Representatives Committee, on entrusting the European Supervisory Authorities with the tasks in relation to the financial assistance for the re-capitalisation of financial institutions

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1. The guidelines on financial assistance for re-capitalisation of financial institutions, adopted by the European Financial Stability Facility (EFSF) and agreed on in the context of establishment of the future European Stability Mechanism (ESM), envisage the participation of the European Supervisory Authorities (the ESAs) in the procedure for banks' re-capitalisation assistance. ESAs may assist the Commission in determining the eligibility criteria for an ESM Member to receive assistance and in the monitoring of compliance with specific conditionality on banks (including on-site inspections). These tasks do not affect the competences of the relevant national supervision authorities when no financial assistance under the EFSF or the ESM is being granted.

2. Member States may entrust Union institutions, bodies or agencies with certain managerial or coordination tasks in respect of a collective action undertaken by them, or by a part of them, inter-governmentally<sup>1</sup>. Under a well-settled practice, said powers are conferred upon through the means of a decision by the representatives of the governments of the 27 Member States meeting in the margins of the Council or of one of its preparatory committees - such as COREPER or the Economic and Financial Committee<sup>2</sup>.
3. Representatives of the governments of the 27 Member States of the European Union, meeting in the margins of the COREPER, could therefore adopt the decision set out in the annex, in order to permit the ESAs to carry out the tasks envisaged under the EFSF and ESM guidelines on financial assistance for re-capitalisation of financial institutions.

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<sup>1</sup> See joined cases C-181/91 and C-248/91, ECR I-3685, the "Bangladesh" judgement, at paragraph 20

<sup>2</sup> For the Greek loan facility, see decision of the representatives of the governments of the 27 Member States of 5 May 2010 in Council at document No 9417/10, attributing certain powers to the Commission. For the EFSF, see the decision of the representatives of the governments of the 27 Member States at Council document No 9614/10, attributing certain powers to the Commission; for the ESM, see decision of the representatives of the Governments of the 27 UE Member States of 20 June 2011, at Council document No 11758/11, attributing certain powers to the Commission and the ECB.

## **Decision of the Representatives of the Governments of the Member States of the European Union**

The representatives of the Governments of the Member States of the European Union agree that the relevant European Supervisory Authority (the "ESAs"), - the EBA, ESMA or EIOPA -, may be tasked by the European Financial Stability Facility (EFSF) shareholders and by the Members of the European Stability Mechanism (ESM) for exercising certain technical and monitoring functions in the context of the financial assistance for the re-capitalisation of financial institutions foreseen under the EFSF Framework Agreement and under the Treaty Establishing the ESM. The ESAs will exercise their functions within the framework of the tasks entrusted to the European Commission in the context of the EFSF Framework Agreement and the Treaty Establishing the ESM, and under its control.

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