



**COUNCIL OF  
THE EUROPEAN UNION**

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**NOTE**

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From: Presidency  
To: Delegations

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Subject: Proposal for a COUNCIL REGULATION establishing a facility for providing financial assistance for Member States whose currency is not the euro

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the functioning of the European Union and in particular, Article 352 thereof,

Having regard to the proposal from the Commission,

After transmission of the draft legislative acts to the national Parliaments,

Having regard to the consent of the European Parliament,

Having regard to the opinion of the European Central Bank,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) In accordance with Article 143 of the Treaty, the Council, acting on a recommendation from the Commission made after consulting the Economic and Financial Committee (EFC) may decide on the granting of a mutual assistance from Member States to a Member State in difficulties or seriously threatened with difficulties as regards its balance of payments. The provision applies only for such assistance to Member States whose currency is not the euro (hereafter 'the non-euro area Member States'). In order to provide for the separate case where the Union grants direct financial assistance to a non-euro area Member State in difficulties or seriously threatened with difficulties as regards its balance of payments, a specific legislation is needed.
- (2) The unprecedented global crisis that has hit the world over the last years has seriously damaged economic growth and financial stability and provoked a strong deterioration in the government deficit and debt position of the Member States, leading a number of them to seek financial assistance.

- (2bis) Article 9 of the Treaty provides that, in defining and implementing its policies and activities, the Union is to take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.
- (3) The rules for granting and monitoring financial assistance to non-euro area Member States should be consistent with the ones applicable to Member States whose currency is the euro (hereafter 'the euro area Member States'), in particular with those provided for in Regulation (EU) No 472/2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability<sup>1</sup>, taking into account the differences of economic governance between euro area Member States and non-euro area Member States and in the Treaty rules applicable to them as well as the more limited economic and financial inter-connectedness between the non-euro area Member States. The Commission should for instance not have the possibility to make a non-euro area Member State subject to enhanced surveillance if the Member State concerned does not receive a financial assistance.
- (3bis) Wherever possible the Union should cooperate closely with the International Monetary Fund (IMF) in providing financial assistance. The active participation of the IMF, at technical and/or financial level, should be sought. A Member State requesting Union financial assistance under this Regulation is expected to address, wherever possible, a similar request to the IMF. Where a Member State is granted a credit line from both the IMF and the Union, a decision of the IMF to cancel the availability of the credit line should trigger a reassessment of the adequacy of the Union credit line.

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<sup>1</sup> Regulation (EU) No 472/2013, OJ L140/1 published on 27.5.2013.

- (3ter) The Union financial assistance should aim at helping the beneficiary Member State to restore a sustainable financial position. The Member State should do so by means of policy measures suited to reduce the need for exceptional financing, including, where possible, by maintaining and mobilising supplemental funding from private sources.
- (3quater) Non-euro area Member States are encouraged to include collective action clauses in all new government bonds with maturity above one year issued under foreign jurisdiction. The insertion of such a clause may be required as part of the policy conditions accompanying a financial assistance under this Regulation.
- (4) The granting of financial assistance should be linked to economic and fiscal surveillance of the Member State concerned. The intensity of this surveillance should be commensurate to the severity of the financial difficulties encountered and should take due account of the nature of the financial assistance received, which may range from a mere precautionary support based on eligibility conditions up to a full macro-economic adjustment programme involving strict policy conditionality.
- (5) A Member State should be subject to enhanced surveillance when an enhanced conditions credit line (ECCL) is granted or a precautionary conditioned credit line (PCCL) is drawn, with a view to ensuring its swift return to a normal situation and to protecting the other Member States against possible negative spill over effects. This enhanced surveillance should include a wider access for the Commission to the information needed for a close monitoring of the economic, fiscal and financial situation of the Member State concerned and a regular reporting to the competent committee of the European Parliament and to the EFC.

- (6) The surveillance of the economic and fiscal situation should be even more reinforced for Member States benefitting from a loan which is accompanied by a macroeconomic adjustment programme. Because of the comprehensive nature of such a programme, the other processes of economic and fiscal surveillance should be suspended for its duration, with a view to avoiding a duplication of reporting obligations. However, when preparing the macroeconomic adjustment programme, all recommendations addressed to the Member State in the course of a preexisting excessive deficit procedure or excessive macroeconomic imbalances procedure should be taken into account.
- (6bi) The balance of payment difficulties giving rise to the application for a loan under this regulation may be due to factors, which would call for more specific policy requirements in the macro-economic adjustment programme pertaining to certain sectors of the economy.
- (6bis) Capital problems of financial institutions may unsettle investors and trigger or likely to trigger substantial capital outflows, that have or threaten to have, an actual, direct and immediate effect on the balance of payments of the Member State concerned, liable to jeopardize the functioning of the internal market or the implementation of the common commercial policy, including inter alia via spill-over effects of the respective Member State balance of payments difficulties to neighbouring Member States. Where financial assistance provided under macroeconomic adjustment programme would address issues stemming mainly from the financial sector, including a need of recapitalization of financial institutions, the policy conditions in the programme could be adjusted so as to address primarily these problems. These policy conditions should be fully in line with EU legislation on bank recovery and resolution, state-aid rules, and safeguarding the interest of taxpayers.
- (6bisi) The pricing of financial assistance under this Regulation should be established taking into account the practice for comparable Union or euro area financial assistance instruments.

- (7) Rules should be provided in order to enhance the dialogue on the implementation of this financial assistance between the Union institutions, in particular the European Parliament, the Council and the Commission, and to ensure greater transparency and accountability. The Parliament of the Member State concerned should be informed in accordance with the national rules and practices.
- (7bis) The Commission should consult the EFC before submitting a proposal for a Council decision. The Commission is also expected to consult the EFC and take its opinion into account when implementing this Regulation, notably but not limited to when it concludes Memorandum of Understanding.
- (7ter) Member States should involve, in accordance with national rules and practices, the social partners and civil society organisations in the preparation, implementation, monitoring and evaluation of financial assistance programmes.
- (8) The scope of activity of the European Supervisory Authorities founded by Regulations (EC) No 1093/2010, (EC) No 1094/2010 and (EC) No 1095/2010 should stay within the limits set in Article 1 of each of these Regulations.
- (9) The European Central Bank (ECB) may provide, within its mandate, its views or may be consulted on the design, negotiation and monitoring of the financial assistance where appropriate, except in respect of the Member State referred to in the Protocol 15 annexed to the Treaty. In particular, the ECB may provide, within its mandate, its views and/or is expected to be consulted in respect of Member States whose currency is participating in the Exchange Rate Mechanism II and/or Member States whose national competent authority has entered into a close cooperation under the Regulation conferring specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions following its adoption.
- (10) For the adoption of this Regulation, which provides a framework for the granting of direct Union financial assistance for non-euro area Member States, the Treaty provides no powers other than those of Article 352.

- (11) The power to adopt individual decisions for the granting of assistance provided for in this Regulation should be conferred on the Council. The decision to grant financial assistance as well as the conditions attached to it are of particular relevance to the policy of economic coordination of the Member States which according to Article 121 TFEU is to take place within the Council.

HAS ADOPTED THIS REGULATION:

*Article 1*

**Subject matter and scope**

1. This Regulation sets up a facility for Union financial assistance that may be granted in pursuance of the objectives laid down in Article 143 of the Treaty to a Member State which is experiencing or is seriously threatened with difficulties in its balance of payments.
2. Only Member States whose currency is not the euro may benefit from Union financial assistance under this Regulation.
3. In applying this Regulation, the Council, the Commission and the Member State concerned shall fully observe Article 152 TFEU. In applying this Regulation and the recommendations adopted hereunder, the Council, the Commission and the Member State concerned shall take into account national rules and practice and Article 28 of the Charter of Fundamental Rights of the European Union. Accordingly, the application of this Regulation and of those recommendations does not affect the right to negotiate, conclude and enforce collective agreements or to take collective action in accordance with national law.

*Article 2*

**Union financial assistance**

1. Union financial assistance shall be provided via:
  - (a) a loan which is accompanied by a macroeconomic adjustment programme;

- (b) a precautionary conditioned credit line (PCCL), which is a credit line based on eligibility conditions;
  - (c) an enhanced conditions credit line (ECCL), which is a credit line based on the combination of eligibility conditions and new policy measures.
2. To this end, the Commission shall be empowered on behalf of the European Union to contract borrowings on the capital markets or with financial institutions.
  3. The total outstanding amount of loans or credit lines to be granted to Member States under this Regulation shall be limited to EUR 50 billion in principal, including financial assistance already granted under Regulation (EC) No 332/2002.
  4. Where financial assistance outside the Union subject to economic policy conditions is envisaged, the Member State concerned shall first consult the Commission and inform the EFC. The Commission shall examine the possibilities available under the Union financial assistance facility and the compatibility of the envisaged economic policy conditions with the measures adopted on the basis of Articles 121 and 126 of the Treaty and on the basis of any legislation adopted on the basis of the said Articles. The Commission shall inform the EFC of its findings.
  5. Where a Member State requests Union financial assistance under this Regulation, the Commission, wherever possible acting in liaison with the IMF, shall assess in a rigorous and systematic manner the sustainability of the general government debt and the current or potential financial needs of the Member State concerned and forward this assessment to the EFC. The assessment shall be based on the most likely macroeconomic scenario or a more prudent scenario and budgetary forecasts using the most up-to date information and taking proper account of the outcome of the reporting referred to in point (a) of Article 6(2) as well as any supervisory task exercised in accordance with point (b) of Article 6(2). The ECB may be consulted or provide its views where appropriate. The Commission shall also assess the impact of macroeconomic and financial shocks and adverse developments on the sustainability of government debt and the overall external debt position of the Member State.



The Commission shall make public the macroeconomic scenario, including the growth scenario, the relevant parameters underpinning the assessment of the sustainability of the government debt of the Member State concerned and the estimated impact of the aggregate budgetary measures on economic growth.

### *Article 3*

#### **Conditions and procedure for granting loans**

1. The Member State seeking a loan shall notify thereof the member of the Commission in charge of economic and monetary affairs, the President of the EFC and where appropriate the President of the ECB.
2. The Member State concerned shall prepare in agreement with the Commission and wherever possible, acting in liaison with the IMF, a draft macro-economic adjustment programme containing policy requirements and aimed at re-establishing a sustainable balance of payments positions and at restoring its capacity to finance itself fully on the financial markets. The draft macro-economic adjustment programme shall be based on the assessment of the sustainability of the government debt referred to in Article 2(5) – which shall be updated to incorporate the impact of the draft corrective measures negotiated with the Member State concerned – and shall take due account of the recommendations addressed to the Member State concerned under Articles 121, 126 and 148 of the Treaty as well as its actions to comply with them, while aiming at broadening, strengthening and deepening the required policy measures. The ECB may be consulted or provide its views where appropriate. The Member State concerned shall consider, in close cooperation with the Commission, whether to take all necessary measures to invite private investors to maintain their overall exposure on a voluntary basis. The Commission shall inform the EFC on the progress made in the preparation of the draft macroeconomic adjustment programme.

2bis Policy conditions in the macroeconomic adjustment programme shall be targeted to address the underlying problems and thus facilitate the necessary adjustment in the balance of payments. In this respect, where the assessment reveals that financial assistance is needed to address issues stemming mainly from the financial sector, including a need of recapitalization of financial institutions, the policy conditions contained in the draft macroeconomic adjustment programme may be adjusted so as to address primarily these problems.

3. The draft macroeconomic adjustment programme shall take into account the practices and institutions of wage formations and the national reform programme of the Member State concerned in the context of the Union strategy for growth and jobs.

The draft macroeconomic adjustment programme shall fully observe Article 152 of the Treaty and Article 28 of the Charter of Fundamental Rights of the European Union.

The fiscal consolidation efforts set out in the macroeconomic adjustment programme shall take into account the needs to ensure sufficient means for fundamental policies, such as education and health care.

The Commission shall inform orally the Chair and Vice-Chairs of the competent committee of the European Parliament of the progress made in the preparation of the draft macroeconomic adjustment programme. This information shall be treated as confidential.

4. The Council, acting by a qualified majority on a proposal from the Commission may decide to grant a loan to the Member State concerned and, if so, shall approve the macroeconomic adjustment programme linked to that loan.

5. The decision to grant a loan shall contain the amount, the maximum average maturity, the pricing, the maximum number of instalments, the availability period of the loan, the main economic policy conditions and the other detailed rules needed for the implementation of the assistance.

6. The Commission and the Member State concerned shall conclude a Memorandum of Understanding (hereafter 'the MoU') detailing the macro-economic adjustment programme. The insertion of collective action clauses in all new government bonds with maturity above one year issued under foreign jurisdiction may be required. The Commission shall communicate the MoU to the European Parliament and to the Council.
7. The Commission, wherever possible in liaison with the IMF, shall monitor the progress made in the implementation of the macro-economic adjustment programme via regular review missions. It shall inform the EFC at the conclusion of each review mission. The ECB may be consulted or provide its views where appropriate. The Member State concerned shall cooperate fully with the Commission. It shall in particular provide to the Commission all the information that it deems necessary for the monitoring of the programme. The Member State concerned shall also have obligations laid down in Article 6(2). The Commission shall inform orally the Chair and Vice-Chairs of the competent committee of the European Parliament of the conclusions drawn from the monitoring of the macroeconomic adjustment programme. This information shall be treated as confidential.
8. The Commission, wherever possible acting in liaison with the IMF, shall examine with the Member State concerned the changes and updates that may be needed to its macro-economic adjustment programme in order to take proper account of inter alia any significant gap between macroeconomic forecasts and realised figures, including possible consequences resulting from the adjustment programme, negative spillover effects as well as macroeconomic and financial shocks. The ECB may be consulted or provide its views where appropriate. The Council, acting by a qualified majority on a proposal from the Commission, shall approve any change to be made to that programme.

9. Where the monitoring referred to in paragraph 7 reveals significant deviations from the macro-economic adjustment programme, the Council, acting by qualified majority on a proposal from the Commission, may decide that the Member State concerned does not comply with the agreed terms of the financial assistance. Disbursements of Union financial assistance under this Regulation shall be suspended. The proposal from the Commission shall explicitly assess whether this significant deviation is due to reasons that are not within the control of the Member State concerned.
- 9bis. Where a decision is taken under paragraph 9, the Member State concerned shall, in close cooperation with the Commission acting in liaison where appropriate with the IMF, take measures aimed at stabilising markets and preserving the good functioning of its financial sector. The ECB may be consulted or provide its views where appropriate.
10. At the latest within six months following the decision provided for in paragraph 9, the Council, acting by qualified majority on a proposal from the Commission, may decide to resume the disbursements if it considers that the Member State concerned complies with the agreed terms of the financial assistance. Where such decision has not been adopted within this deadline, no further disbursements of the agreed Union financial assistance under this Regulation shall be made.
11. Where the Member State concerned experiences insufficient administrative capacity or significant problems in the implementation of its macroeconomic adjustment programme, it shall seek technical assistance from the Commission which may constitute for this purpose groups of experts with Member States and other European and/or relevant international institutions. The objectives and the means of the technical assistance shall be explicitly outlined in the updated versions of the macroeconomic adjustment programme and focus on the area where major needs are identified. Technical assistance may include the establishment of a resident representative and supporting staff to advise authorities on the adjustment programme implementation.

- 11bis. The macroeconomic adjustment programme shall be made public, including its objectives and the expected distribution of the adjustment effort. The conclusions of the assessment of the sustainability of the government debt shall be annexed to the macroeconomic adjustment programme.
- 11ter. A Member State subject to a macroeconomic adjustment programme shall carry out a comprehensive review of its public finances in order inter alia to assess the reasons having led to the building up of excessive levels of debt as well as to track any possible irregularity.
12. The competent Committee of the European Parliament may offer the opportunity to the Member State concerned and to the Commission to participate to an exchange of views on the progress made in the implementation of the macroeconomic adjustment programme.
13. Representatives of the Commission may be invited by the Parliament of the Member State concerned to participate to an exchange of views on the progress made in the implementation of the macro-economic adjustment programme.

#### *Article 4*

#### **Conditions for granting credit lines**

1. Access to a PCCL shall be limited to Member States whose fiscal situation remains fundamentally sound. A global assessment shall be made on whether a Member State qualifies for a PCCL, using as a basis the following eligibility criteria:
- (a) The respect of the Council recommendations and Council decisions adopted on the basis of Articles 121 and 126 of the Treaty. Member States under excessive deficit procedure may still access a PCCL, provided they fully abide by the Council recommendations under Article 126(7) of the Treaty;
  - (b) a sustainable general government debt;

- (c) the respect of their commitments under the excessive imbalance procedure (EIP). Member States under EIP could still access PCCL if it is established that they are committed to addressing the imbalances identified by the Council;
  - (d) a track record of access to capital markets on reasonable terms;
  - (e) a capacity to service its external liabilities over the medium term ;
  - (f) the absence of bank solvency problems that would pose systemic threats to the banking system stability.
2. Access to an ECCL shall be open to Member States which do not comply with some of the eligibility criteria required for accessing a PCCL but whose general economic and financial situation remains sound. The Member State concerned shall, after consultation of the Commission, prepare corrective measures aimed at:
- (a) addressing the eligibility criteria set out in paragraph 1 considered as not met, and
  - (b) ensuring a continuous respect of the other eligibility criteria set out in paragraph 1.

The ECB may be consulted or provide its views where appropriate.

#### *Article 5*

#### ***Procedure for granting credit lines***

1. The Member State seeking a credit line shall notify thereof the member of the Commission in charge of economic and financial affairs, the President of the ECB where appropriate and the President of the EFC.
2. The Commission, wherever possible acting in liaison with the IMF, shall carry out the assessment of the sustainability of the general government debt referred to in Article 2(5). It shall also assess the current or potential financial needs of the Member State concerned and forward this assessment to the EFC. The ECB may be consulted or provide its views where appropriate.

3. The Commission shall assess whether the Member State concerned meets the conditions set in Article 4 for accessing a PCCL or an ECCL. The ECB may be consulted or provide its views where appropriate.
4. The Council, acting by a qualified majority on a proposal from the Commission may decide to grant a PCCL or an ECCL for an initial duration of one year. The decision to grant a credit line shall contain the amount, the fee for the availability of the credit line, the pricing applicable for the release of funds, the availability period, the maximum average maturity for the loan to be drawn and the other provisions needed for the implementation of the assistance. The decision to grant an ECCL shall also include a description of the corrective measures to be adopted in accordance with Article 4(2).
5. The Commission and the Member State concerned shall conclude a MoU detailing the conditions attached to the credit line. The Commission shall communicate the MoU to the European Parliament and to the Council.
6. On a request from the Member State concerned, the Council, on proposal from the Commission, may decide to renew the credit line twice, for six months each time.
7. Where a credit line is granted but not drawn, the Commission shall monitor the continuous respect of the eligibility criteria and policy conditions and inform every three months the EFC of its findings. If the Member State concerned no longer fulfils the eligibility criteria or deviates from the conditions set in the MoU, the Council, acting on a proposal from the Commission, may decide to terminate the availability of the credit line. The proposal from the Commission shall explicitly assess whether this significant deviation is due to reasons that are not within the control of the Member State concerned.
- 7bis. The Commission shall reassess the adequacy of a credit line when it is drawn. Where this assessment leads the Commission to conclude that the credit line is no longer appropriate for addressing the difficulties of the Member State concerned, the Council, acting on a proposal from the Commission, may decide to terminate the availability of the credit line and to recommend to the Member State concerned to submit a request for a loan following the procedure established in Article 3.

8. Where an ECCL is granted or a PCCL drawn, the Member State shall be subject to enhanced surveillance in accordance with Article 6 for the availability period of the credit line.

### *Article 6*

#### **Enhanced Surveillance**

1. A Member State under enhanced surveillance shall, in consultation and cooperation with the Commission, acting where relevant in consultation with the ECB, the European Supervisory Authorities (ESA) and the European Systemic Risk Board (ESRB) and where appropriate the IMF, adopt measures aimed at ensuring a sustainable balance of payments position and avoiding any future problems with access to market financing taking into account any recommendations addressed to it under Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of budgetary positions and the surveillance and coordination of economic policies<sup>1</sup>, Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure<sup>2</sup>, or Regulation (EU) No 1176/2011 on the prevention and correction of macroeconomic imbalances, concerning its national reform programmes and its convergence programme. The EFC and the relevant committee of the European Parliament and the parliament of the Member State concerned where relevant and in accordance with national practises shall be informed of those measures by the Commission.

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<sup>1</sup> *OJ L 209, 2.8.1997, p. 1.*

<sup>2</sup> *OJ L 209, 2.8.1997, p. 6.*



2. Upon request from the Commission, the Member State under enhanced surveillance shall:
- (a) communicate to the Commission, the ECB where entrusted in a supervisory capacity as regards that Member State and where appropriate the relevant national supervisory authority and ESA(s), in accordance with Article 35 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010, at the requested frequency disaggregated information on developments in its financial system including an analysis of the results of the stress test exercises and sensitivity analyses carried out under point (b). The Commission, the ECB, the relevant national supervisory authority and ESA(s) shall preserve the confidentiality of the disaggregated data received;
  - (b) carry out, under the supervision of the ECB where entrusted in a supervisory capacity as regards that Member State or where appropriate 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 Commission and the ECB or national supervisory authority, each in liaison with the relevant ESA(s) and the ESRB, and share the detailed results with them;
  - (c) be subject to regular assessments of its supervisory capacities over the financial sector in the framework of a specific peer review carried out by the ECB where entrusted in a supervisory capacity or where appropriate the relevant ESA(s);
  - (d) communicate any information needed for the monitoring of macro-imbalances established by Regulation No 1176/2011;

- (e) carry out and report on a comprehensive independent review of the public accounts of all subsectors of the general government conducted preferably and where possible 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 Commission (Eurostat) shall assess the quality of statistical data reported by the Member State concerned in accordance with Regulation (EC) No 479/2009;
- (f) provide additional information for the purposes of monitoring the progress towards the correction of its excessive deficit if it is subject to a Council decision under Article 126(6) of the Treaty.

3. The Member State under enhanced surveillance shall:

- (a) carry out without delay a comprehensive assessment of in-year budgetary execution for the general government and its sub-sectors. The financial risks associated to contingent liabilities with potentially large impacts on public budgets shall also be covered by the assessment to the extent that they may contribute to the existence of an excessive deficit. The result of this assessment shall be transmitted to the Commission and EFC;
- (b) report regularly to the Commission and to the EFC for the general government and its sub-sectors, the in-year budgetary execution, the budgetary impact of discretionary measures taken on both the expenditure and the revenue side, targets for the government expenditure and revenues, as well as information on the measures adopted and the nature of those envisaged to achieve the targets. The report shall be made public. The Commission shall be empowered to adopt delegated acts in accordance with Article 16 specifying the content of the regular reporting referred to in this point.

4. The Commission shall conduct, in liaison with the ECB where relevant and the ESA(s) as needed and when appropriate the IMF, regular review missions in the Member State under surveillance to verify the progresses made in the implementation of the measures mentioned in paragraph 1, 2 and 3. It shall communicate every three months its findings to the EFC and to the competent committee of the European Parliament and assess notably whether further measures are needed. These review missions shall replace the onsite monitoring provided for in Article 10a(2) of Council Regulation (EC) No 1467/97. When preparing its assessment, the Commission shall take into account the results of any in-depth review under Regulation No (EU) 1176/2011, including the evaluation of spill-over effects of national economic policies on the Member State subject to enhanced surveillance in accordance with Article 5(2) of that Regulation.
5. Where on the basis of the assessment foreseen in paragraph 4, it is concluded that further measures are needed and the financial situation of the Member State concerned has significant adverse effects on the financial stability of the Union, the Council, acting by a qualified majority on a proposal from the Commission, may recommend to the Member State concerned to submit a request for a loan following the procedure established in Article 3. The recommendation and the preparatory work done in the run-up to its adoption shall be considered as confidential, unless the Council decides to make it public.
6. Where a recommendation adopted in accordance with paragraph 5 is made public:
  - (a) the competent Committee of the European Parliament may offer the opportunity to the Member State concerned and to the Commission to participate to an exchange of views;
  - (b) representatives of the Commission may be invited by the parliament of the Member State concerned to participate to an exchange of views;
  - (c) the Council shall inform the competent committee of the European Parliament in due time about the content of the recommendation;

- (d) The competent committee of the European Parliament and the Parliament of the Member State concerned may invite representatives of the Commission, the ECB and the IMF to participate in an economic dialogue .

#### *Article 7*

### **Consistency with the Stability and Growth Pact**

1. Where a Member State is subject to a macroeconomic adjustment programme , and the changes thereto, under Article 3 of this Regulation, it shall be exempt from submitting a convergence programmes provided for by Article 8 of Council Regulation (EC) No 1466/97, and shall integrate the content of such a convergence programme into its macroeconomic adjustment programme.
2. Where a Member State subject to a macroeconomic adjustment programme is also the subject of a recommendation under Article 126(7) of the Treaty for the correction of an excessive deficit:
  - (a) it shall be exempt from submitting the reports provided for by Article 3(4a) of Council Regulation (EC) No 1467/97;
  - (b) the annual budgetary targets in the macro-economic adjustment programme provided for by Article 3 of this Regulation shall be integrated into the recommendation under Article 3(4) of Regulation (EC) No 1467/97 in the recommendation made in accordance with Article 126(7) of the Treaty;
  - (c) the monitoring provided for by Article 3(7) of this Regulation shall be deemed to replace the monitoring provided for by Article 10(1) and Article 10a of Regulation (EC) No 1467/97 and the monitoring underlying any decision provided for by Article 4(2) of Regulation (EC) No 1467/97.

### *Article 8*

#### **Consistency with the macro-economic imbalances procedure**

Where a Member State is subject to a macroeconomic adjustment programme under Article 3 of this Regulation, Regulation (EU) No 1176/2011 shall not apply to that Member State for the duration of that programme, save that the indicators in the scoreboard established in regulation (EU) n°1176/2011 shall be integrated into the monitoring of that programme.

### *Article 9*

#### **Consistency with the European Semester for economic policy coordination**

Where a Member State is subject to a macroeconomic adjustment programme under Article 3 of this Regulation, it shall be exempt from the monitoring and assessment of the European Semester for economic policy coordination under Article 2-a of Regulation (EC) No 1466/97 for the duration of that programme.

### *Article 10*

#### **Disbursement of a loan**

1. The loan shall, as a rule, be disbursed in instalments.
2. Without prejudice to Article 3(9) the Council, acting on a proposal from the Commission, shall decide on the release of instalments subject to compliance by the Member State concerned with the conditions set in the MoU, as assessed in the monitoring established in Article 3(7).

### *Article 10 bis*

#### **Consultation of the EFC**

1. The Commission shall consult the EFC before submitting a proposal to the Council for a decision under Articles 3(4), 3(8), 3(9), 3(10), 5(4), 5(6), 5(7), 10 (2) and 15(4).

## *Article 11*

### **Release of funds under a credit line**

1. The Member State concerned shall inform the Commission, the ECB and the EFC in advance of its intention to draw down funds from its credit line at least 45 calendar days in advance. Detailed rules shall be laid down in the decision referred to in Article 5(5).
2. On the basis of the monitoring established in Articles 5(7) and 6(4), the Commission shall decide on the release of the funds.

## *Article 12*

### **Borrowing and lending operations**

1. The borrowing and lending operations referred to in Article 2 shall be carried out in euro.
2. The characteristics of the successive instalments released by the Union under the financial assistance facility shall be negotiated between the Member State concerned and the Commission.
3. Once the decision on a loan has been made by the Council, or a request from a Member State to draw funds from its credit line has been received, the Commission shall be authorised to borrow on the capital markets or from financial institutions at the most appropriate time in between planned disbursements so as to optimise the cost of funding and preserve its reputation as the Union's issuer in the markets. Funds raised but not yet disbursed shall be kept at all times on dedicated cash or securities account which are handled in accordance with rules applying to off-budget operations and cannot be used for any other goal than to provide financial assistance to Member States under the present mechanism.
4. Where a Member State receives a loan carrying an early repayment clause and decides to exercise this option, the Commission shall take the necessary steps.

5. At the request of the Member State concerned and where circumstances and borrowing contracts permit an improvement in the interest rate on the loan, the Commission may refinance all or part of its initial borrowing or restructure the corresponding financial conditions.
6. The EFC shall be kept informed by the Commission of the developments in the operations referred to in paragraph 5.

### *Article 13*

#### Costs and pricing

The costs incurred by the Union in concluding and carrying out each operation shall be borne by the Member State concerned. The pricing of financial assistance shall include an appropriate margin.

### *Article 14*

#### **Administration of the loans**

1. The Commission shall establish the necessary arrangements for the administration of the loans with the ECB.
2. The Member State concerned shall open a special account with its National Central Bank for the management of the Union financial assistance received. The Central Bank of the Member State concerned shall open a special account with the ECB. The Member State concerned shall, by means of the account opened with its Central Bank, also transfer the principal and the interest due under the loan or credit line to the respective account with the ECB fourteen TARGET2 business days prior to the corresponding due date.

3. Without prejudice to Article 27 of the Statute of the European System of Central Banks and of the European Central Bank, the European Court of Auditors shall have the right to carry out in the Member State concerned any financial controls or audits that it considers necessary in relation to the management of that assistance. The Commission, including the European Anti-Fraud office, shall in particular have the right to send its officials or duly authorised representatives to carry out in the Member State concerned any technical or financial controls or audits that it considers necessary in relation to that assistance.

#### *Article 15*

#### **Post-assistance surveillance**

1. A Member State which has received Union financial assistance under this Regulation shall be under post-assistance surveillance as long as a minimum of 75% of the principal of the financial assistance has not been repaid. The Council, acting on a qualified majority on a proposal from the Commission, may extend the duration of the post assistance surveillance in case of persistent risks on the financial stability of the Member State concerned. Post assistance surveillance shall not be extended beyond the date by which financial assistance has been repaid in full.
2. The Member State under post-assistance surveillance shall also have obligations laid down in Article 6(2).
3. The Commission shall conduct regular review missions in the Member State under post assistance surveillance to assess its economic, fiscal and financial situation. The ECB may be consulted or provide its views where appropriate. The Commission shall communicate every semester its findings to the competent committee of the European Parliament, to the EFC and to the parliament of the Member State concerned and shall assess notably whether corrective measures are needed..
- 3bis. The competent committee of the European Parliament may offer the opportunity to the Member State concerned to participate to an exchange of views on the progress made under the post-assistance surveillance.



- 3ter. The parliament of the Member State concerned may invite representatives of the Commission to participate in an exchange of views on the post-assistance surveillance
4. The Council, acting by qualified majority on a proposal from the Commission, may recommend to the Member State under post-assistance surveillance to adopt corrective measures.

### *Article 16*

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 6(3)(b) shall be conferred on the Commission for a period of three years from date of adoption of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 6(3)(b) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 6(3)(b) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 17*

**Measures to safeguard tax revenues**

A Member State receiving financial assistance under this Regulation shall, where necessary, take measures in close cooperation with the Commission aiming to reinforce the efficiency and effectiveness of revenue collection capacity and the fight against tax fraud and evasion, with a view to increasing its fiscal revenue.

*Article 17 bis*

**Review**

The Commission shall address a report to the Council assessing whether this Regulation, including the ceiling for financial assistance under this Regulation should be reviewed every three years after the date of the adoption of this Regulation.

*Article 18*

**Repeal**

Regulation (EC) No 332/2002 is hereby repealed. Assistance granted on the basis of that Regulation remain subject to it as long as the availability period is not exhausted and any amounts are outstanding.

*Article 19*

**Transitional provision**

Article 15 shall not apply to Member States already under post-assistance surveillance after having received a financial assistance under Regulation (EC) No 332/2002 at the date of entering into force of this Regulation.

*Article 20*

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council*

*The President*