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**NOTE**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Term Sheet for national Credit Lines provided by the participating Member States to the Single Resolution Board (SRB)

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Delegations will find attached the term-sheet and draft facility agreement on the national individual credit lines, as endorsed by the EFC on 27 November.

## Term Sheet for national Credit Lines provided by the participating Member States to the Single Resolution Board (SRB)

| Credit Line | <p>Individual facility to be provided by each of the participating Member States to the Single Resolution Board (SRB)/Single Resolution Fund (SRF) in relation to the national compartment under the terms and conditions laid down in this term sheet.</p> <p>Regarding the necessity to quantify the share of each Member State and to determine a Fixed Maximum Amount for the individual Credit Line as requested by many Member States, the SRB proposes to use the estimates of the European Commission for option 2b (COM note as of 27 November 2014) for the purpose of this arrangement ("Key") – see Annex 1.</p> <p>Member States and the SRB shall review the appropriateness of the Key by the end of 2017, and in any event when a non-euro area Member State joins the Banking Union.</p> <p>The review should serve the purpose to adapt the Key in light of future developments in the distribution of contributions by the national banking sectors – see Annex 2.</p> <p>Member States may choose not to have the provisions on national approval and staggered payments included in their respective facility agreement. In such cases, all references to national approval and staggered payments will be deleted and a commitment fee introduced. All relevant adaptations required for such purposes are contained between square brackets and referenced in the LFA as footnotes ("OPTION 2").</p> |
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| Fixed Maximum Amount    | <p>The Fixed Maximum Amount of the overall Credit Lines of all participating Member States as set out in Annex 1 amounts to EUR 55bn for this arrangement.</p> <p>Member States and the SRB shall review the appropriateness of the Fixed Maximum Amount by the end of 2017, and in any event when a non-euro area Member State joins the Banking Union.</p>   |
| Fixed Individual Amount | <p>The Fixed Individual Amount for each participating Member State, as set out in Annex 1, is the sum of EUR 55 bn times the Key for the respective Member State.</p>  |
| Available Amount        | <p>The Available Amount is at any point in time the residual of the Fixed Individual Amount minus the Available Funding Capacity in each compartment minus the outstanding amount of Individual Drawings under the Credit Line.</p> <p>The Available Amount is reduced by the outstanding Individual Drawings and increased by Repayments on an ongoing basis. The Fixed Maximum Amount under this arrangement is steady throughout the transitional period according to Article 3(1)(37) SRM Regulation (SRMR), notwithstanding the review of the Fixed Maximum Amount foreseen in the Term Sheet.</p> <p>Each Member State receives a notification by the SRB about the Individual Drawings outstanding and Repayments for each calendar year.</p> |

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| <p>Available Funding Capacity</p> | <p>The Credit Line will only be used for financing resolution operations if the following pecking-order according to Article 5(1) IGA has been applied:<sup>1</sup></p> <ul style="list-style-type: none"> <li>i. The available financial means in the affected national compartment(s), i. e. the collected ex-ante contributions according to Article 70(1) SRMR (Article 5(1a) IGA);</li> <li>ii. The mutualised financial means available in all national compartment(s) (Article 5(1b) IGA);</li> <li>iii. The remaining means in the national compartment(s) (Article 5(1c) IGA);</li> <li>iv. The available borrowings in accordance with Articles 73 and 74 SRMR or financial means from temporary transfers between compartments in accordance with Article 7 IGA (Article 5(1e) IGA).</li> </ul> <p>The Available Funding Capacity for each national compartment is the sum of the available ex-ante contributions<sup>2</sup> in each compartment and any available external borrowing according to Article 73 and Article 74 if available<sup>3</sup>. The elements of the Available Funding Capacity can be considered once, i. e. for one national compartment only, notwithstanding cross-compartmental relations as set out in the waterfall according to Article 5(1) IGA.</p> <p>Before Individual Drawings can be made by the SRB, the Member States will be notified about the Available Funding Capacity. Upon request, the SRB stands ready to provide evidence about the elements of calculating the Available Funding Capacity (e. g. overview about funding status of SRF, confirmation that pecking-order according to Article 5(1) IGA has been applied etc.).</p> |
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<sup>1</sup> Article 5(1d) IGA is not applicable because Credit Lines serve to pre-finance ex-post contributions to be collected from the banking sector in the Member State concerned.

<sup>2</sup> "*available ex-ante contributions*" describes any ex-ante contributions which are available to be used for a specific resolution action in the respective compartment at the time of the adoption of the resolution scheme. It includes ex-ante contributions, which have been duly paid in and are still available in the compartment at the time of the adoption of the resolution scheme. It does not include ex-ante contributions, which have been used up to cover losses, costs or other expenses incurred in prior resolution actions. This reading ensures that the Credit Line can be used to bridge-finance the raising of ex-post contributions for the intended purpose, namely in a case where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the Fund in resolution actions (Art. 71 of the SRM Regulation). A restrictive interpretation, according to which any ex-ante contributions would be included, which were paid in at some point in time, irrespective of whether they have been spent or not, would hardly be compliant with the word "available".

<sup>3</sup> "*external borrowing according to Article 73 and Article 74 if available*" in the view of the SRB describes borrowed funds which have been contracted and paid in or in the case of a facility and which are immediately useable for resolution action in the respective Member State at the time of the adoption of the resolution scheme. This will allow for a clear determination of which borrowings will be included and which will not. It will also ensure that all Member States are treated equally.

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| <p>Payment requests</p> | <p>The SRB will make a request for payment under the Credit Line if the Available Funding Capacity in the compartment concerned is not sufficient to cover losses, costs or other expenses under a specific resolution scheme.</p> <p>The SRB will make the payment request in writing (including with supplementary information about the elements of the Available Funding Capacity), and send it via encrypted means, specified in the Facility Agreement, to addressees at the Member State. The addressees at the Member State shall be specified in the Facility Agreement.</p> <p>The Member State(s) commit to making available, subject to prior national approval, where applicable, the amount requested by the SRB to an account notified by the SRB to the Member State. Prior to the payment request and if applicable, the SRB will strive to provide an early notice to the Member State which allows the Member State to initiate precautionary measures for a potential payment request under the Credit Line on a strictly confidential basis. The procedure shall not infringe information requirements from competent bodies in the Member States.</p> <p>The Member State must inform the SRB within 3 working days after the receipt of the request if it will not be able to provide funding to the SRB and cannot fulfil its contractual obligation, together with a reasoned explanation. In that case, the SRB will proceed on the basis of agreed Representations &amp; Warranties.</p> <p>If Member States do not choose Option 2, they are not required to make the loan in full but may choose to make staggered payments, whereby at least 50% of the Fixed Individual Amount would be provided under the first request within four working days, followed by a maximum of three subsequent disbursements to be provided thereafter every five business days, unless exceptional circumstances apply. The exceptional circumstances are defined as the entry into force of a resolution scheme, which provides for the application of a resolution tool requiring a payment above 50% of the Fixed Individual Amount in order to avert the immediate default of this entity under resolution.</p> |
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| Repayment           | <p>The SRB will repay Individual Drawings under the Credit Line after ex-post contributions according to Article 71 SRMR have been raised and transferred to the SRB/SRF from the institutions authorised in the jurisdiction of the Member State where the resolution took place, and after borrowings in accordance with Article 73 and 74 or financial means from temporary transfers between compartments in accordance with Article 7 IGA for the respective resolution action have been repaid.</p> <p>The SRB will repay drawings under the Credit Line to the account notified to the SRB in the Facility Agreement.</p> |
| Tenor               | <p>Without prejudice to the provisions in the section on Repayment, the tenor of the Individual Drawings is 24 months.</p> <p>If the Repayment after a period of 24 months is not possible, the Member State shall agree on an extension of the Tenor whereby the extension is limited to 12 months. The SRB will provide appropriate evidence that the conditions for making the Repayment after the period of 24 months are not in place.</p>  |
| Applicable Currency | <p>The Credit Line shall be denominated in euro. Individual Drawings are in principle possible in euro only.</p> <p>For a Credit Line provided by a Member State whose local currency is other than euro, Individual Drawings can also be made under the local currency if applicable and upon request and prior notification by the SRB.</p>  |

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| Applicable Interest Rate | <p>In order to be fiscally neutral for the Member States, the Applicable Interest Rate is the rate representing the funding costs of the Member State at the time of the Individual Drawing reflecting a Tenor of 24 or 12 months respectively.</p> <p>If no market quotes for one or more Member States are available at the time of drawing, the following rule shall apply for the Applicable Interest Rate of that Member State:</p> <ul style="list-style-type: none"> <li>- For Member States for which market quotes in the past 6 months are available and which are not under a financial assistance program: Average Applicable Interest Rate for the Member State during the past 6 months for funding with a Tenor of 24 or 12 months respectively.</li> <li>- For Member States which are under financial assistance: the interest rate as set out in the agreements implementing the financial assistance.</li> </ul> <p>Interest under the Credit Line will be calculated by participating Member State(s) at the end of every calendar year or, if applicable, at the time of repayment. They will be due and payable in arrears at the time of Repayment. The obligation for the payment of interest rates remains until full Repayment of the Individual Drawing.</p> |
| Commitment Fee           | <p>No commitment fee shall be payable by the SRB to the Member State(s).</p> <p>If Option 2 applies, the SRB shall pay the Member State(s) during the Availability Period a commitment fee computed in euro at the rate of 0.1 per cent per annum on the Available Amount. The accrued commitment fee for each calendar year shall be calculated by the SRB and be payable within 20 Business Days after the end of such calendar year.</p>   |
| Facility Agreement       | <p>The SRB will conclude with each Member State a Facility Agreement based on a final term sheet agreed with all participating Member States. The Facility Agreement sets out terms and conditions for the Credit Line and is binding for each party. The Facility Agreement shall constitute a legally binding commitment to make funds available under the conditions laid down in this term sheet and the Facility Agreement to be concluded.</p>  |

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| Use of Funds                 | <p>The SRB uses the proceeds of the Credit Line to pre-finance the ex-post contributions for resolution operations according to Article 76 SRMR for institutions authorised in the jurisdiction of the Member State where the resolution operation took place. Losses, costs or other expenses incurred by the use of the SRF in the resolution operation will eventually be covered by ex-post contributions pursuant to Article 71 SRMR.</p> <p>The collected ex-post contributions according to Article 71 SRMR are used to repay the Individual Drawings under the Credit Line provided by the Member State.</p>  |
| Collateral                   | The Credit Line is unsecured.   |
| Representations & Warranties | <p>The Representations and Warranties include, inter alia, a yearly update about the Available Amount and about the Available Funding Capacity before Individual Drawings can be made.</p> <p>Furthermore, the Member States and the SRB shall agree in the Facility Agreement on terms and procedures in case a Member State does not fulfil its obligations.</p> <p>In order not to infringe information needs of the Member States or competent bodies in the Member States (e. g. national parliaments) the SRB and the Member States shall agree on appropriate procedures which also take confidentiality requirements into account.</p> <p>Additionally, the SRB commits to raising ex-post contributions in due course in accordance with Article 71 SRMR and the delegated act by the European Commission based on Article 71(3) SRMR, where existing.</p> |
| Applicable Law               | The Facility Agreement shall be governed by Luxembourg law.   |



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| General review Clause | If all Participating Member States agree to proceed to the review of their respective loan facility agreements, the Parties shall proceed to a review of this Agreement as part of a common process with all other Participating Member States. As part of the review, the Borrower and the Lender shall assess the need for amendments. Such a review will occur at the latest at the Common Backstop Date. |
| Entry into Force      | The Facility Agreement for each Member State enters into force when the SRMR has become fully applicable and when the Member State concerned has ratified the IGA and transposed the BRRD.   |

## ANNEX 1 – INITIAL KEY AND NOTES ON THE METHODOLOGY

**Table 1: Estimated shares in ex-ante contributions to the SRF during the initial period.**

| A            | B  | C  |
|--------------|--|--|
| MS           | Estimated Share<br>in Ex-Ante SRF<br>Contributions:<br>2016-2023*<br>(%) | B<br>*<br>Fixed Maximum<br>Amount<br>(€) |
| AT           | 2.86   | 1,573,000,000                            |
| BE           | 3.40   | 1,870,000,000                            |
| CY           | 0.20   | 110,000,000                              |
| DE           | 27.56  | 15,158,000,000                           |
| EE           | 0.04   | 22,000,000                               |
| EL           | 1.13   | 621,500,000                              |
| ES           | 9.62   | 5,291,000,000                            |
| FI           | 1.97   | 1,083,500,000                            |
| FR           | 27.79  | 15,284,500,000                           |
| IE           | 3.30   | 1,815,000,000                            |
| IT           | 10.46  | 5,753,000,000                            |
| LT           | 0.06   | 33,000,000                               |
| LU           | 1.97   | 1,083,500,000                            |
| LV           | 0.07   | 38,500,000                               |
| MT           | 0.12   | 66,000,000                               |
| NL           | 7.57   | 4,163,500,000                            |
| PT           | 1.55   | 852,500,000                              |
| SI           | 0.13   | 71,500,000                               |
| SK           | 0.20   | 110,000,000                              |
| <b>Total</b> | <b>100.00</b>  | <b>55,000,000,000</b>                    |

\*: Source: Commission services' non-paper on the estimated aggregate contributions to the Single Resolution Fund accounting for 2015 contributions (27 November 2014), Table 1, Column L. Values are rounded to the second decimal place.

While based on the best information available at the time (November 2014), these estimates rely on assumptions, suffer from missing data points and missing variables, and come with a significant lag (since they reflect, with a few exceptions, the situation at the end of 2012). The data for these estimates was submitted directly by Member States to the Commission services. The Commission services documented all the potential problems and addressed them to the extent possible, but cannot guarantee on the quality of the input data.

The following elements should be taken into account when reading the estimates presented in this document:

1. These estimates were based on the data, methodology and assumptions described in the Commission Staff Working Document (SWD(2014) 327/2) accompanying Commission Delegated Regulation (EU) 2015/63, including the estimates of the treatment of derivatives as described in Section 14 of the same document and without modelling the additional risk indicators that will have to be determined by resolution authorities.
2. All the caveats and assumptions described in working document CEGBPI BANK 88 2014 apply. In particular, it should be recalled that:
  - a) Some banks were excluded from the sample due to missing or inconsistent data. The final estimates were obtained as follows: sample statistics were linearly extrapolated to make up for the percentage of total assets corresponding to the observations that had to be excluded to due missing or inconsistent data.
  - b) The final estimates were produced under the assumption that data provided by the Member States included all of the population subject to BRRD. As a result, no adjustment was made for the sample-to-population ratio as such. It should be noted that in some cases there were large differences between the sample provided for this analysis and EBA and ECB statistics.
3. As a result, the estimates hereby presented, while based on the best information available to the Commission services at the time, should be interpreted with caution when comparing point values across Member States. The actual absolute and relative differences may vary due to unobserved sample selection, and due to the imputation of data and simplifying assumptions that need to be performed in order to produce estimates at the Member State level.
4. Latvia and the Netherlands submitted updated data in the course of the month of October 2014. After performing the steps described in Section 9(b) of Commission SWD(2014) 327/2 and the necessary estimations, the Commission services included them in the database used to conduct the analyses whose results are presented here.

## ANNEX 2 - REVIEW OF THE KEY

The review should serve the purpose to adapt the Key to the actual share of ex-ante contributions to the SRF by institutions authorized in the individual Member States (Article 4(2) IGA) in the total ex-ante contributions payable by all institutions authorized in the participating Member States. The numerator of the share for each Member State shall be computed as the sum of following elements:

- (a) the contributions payable by the institutions authorized in the territory of the Member State pursuant to Articles 69 and 70 of the SRMR as well as to the delegated and implementing acts referred to therein, for the years for which the SRB has completed the calculations before the review occurs;
- (b) the contributions payable by the institutions authorized in the territory of the Member State as calculated in conformity with Articles 69 and 70 of the SRMR as well as to the delegated and implementing acts referred to therein, for the remaining years of the initial period referred to in Article 69(1) thereof and on the basis of the most recent data available at the time of the review<sup>4</sup>.

The denominator of the share shall be computed as the sum of the numerators of all participating Member States.

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<sup>4</sup> In order to properly reflect the composition of the SRF at the end of the initial period (under the assumption that no disbursements are made), it is important to give full application to Article 8 of Council Implementing Regulation (EU) 2015/81 over the entire initial period, even only a (few) year(s) of contributions have been actually calculated. This is the same methodology applied for the European Commission estimates referred to above, except that the actual and most recent data would feed into it.