

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.² 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.
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 consistent with the aforementioned assessment and taking into account the financial situation of the ESM 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 in accordance with Article 13(2) of the ESM Treaty.

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

² This should be done taking into account Recital 8 of the ESM Treaty.

3. If a decision is adopted pursuant to paragraph 2, the Board of Governors shall, in accordance with Article 13(3) of the ESM Treaty, 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. Where bank recapitalisation is conducted using a portion of the loan, the provisions applicable therein should be in keeping with the monitoring, general principles of State-aid and involvement of the ESAs, as laid out in the Guideline on Financial Assistance for the Recapitalisation of Financial Institutions.
 - (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 3 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 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

1. Loans shall be provided in one or more tranches, which may each consist of one or more disbursements.
2. 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.
3. On a proposal from the Managing Director, and after having received a report from the European Commission on the monitoring of and compliance by the beneficiary ESM Member with the policy conditionality attached to the financial assistance facility – in line with Articles 13(7) and 16(5) of the ESM Treaty – the Board of Directors shall decide to disburse subsequent tranches of the financial assistance. The proposal of the Managing Director shall remain consistent with the aforementioned report and take into account the financial situation of the ESM.. The Managing Director shall immediately inform the European Commission of a request for funds.



4. When the financial assistance facility agreement foresees that possibility, 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

Monitoring

1. 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 financial assistance facility.
2. The beneficiary ESM Member shall give the European Commission, as well as the ECB, ESM, and where appropriate the IMF, its full cooperation. It shall, in particular, provide to the European Commission, acting in liaison with the ECB, all the information that the latter deems necessary for the monitoring of the policy conditionality of the programme as agreed in the MoU; it shall also provide the ESM all information the latter deems necessary to conduct its financial due diligence.
3. If monitoring processes highlight significant deviations from the macroeconomic adjustment programme, the Board of Governors, acting on a proposal from the European Commission, may decide that the beneficiary ESM Member does not comply with the policy requirements contained in the programme. Disbursements of a tranche shall stop until the Board of Governors decides to re-authorise them, at which time the standard procedure laid down in Article 3(3) shall again be applicable.

Article 5

Warning system

The ESM shall establish an appropriate 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.