

Eligibility criteria for ESM precautionary financial assistance

The criteria below represent the eligibility criteria for ESM precautionary financial assistance and have been determined having regard to:

(A) the Euro Summit Statement of 14 December 2018 which endorsed the term sheet on the reform of the ESM, specifying that ex-ante eligibility criteria assessing sound economic and financial performance will be clarified, and that the enhanced conditions credit line (ECCL) instrument will continue to be available as foreseen in the current ESM guideline; and

(B) the joint position on future cooperation between the European Commission and the ESM, as annexed to the term sheet on the reform of the ESM, as well as to the roles and competences of institutions as foreseen in the European Union legal framework.

Furthermore considering that the procedure for granting ESM precautionary financial assistance follows Articles 13 and 14 of this Treaty, and that according to Article 14(1) of this Treaty, the Board of Governors may decide to grant precautionary financial assistance to an ESM Member whose government debt is sustainable, and that the Board of Directors shall adopt the detailed guidelines on the modalities for implementing ESM precautionary financial assistance accordance with Article 14(5) of the Treaty,

1. Eligibility criteria for granting a precautionary conditioned credit line (PCCL):

Access to a PCCL shall be based on eligibility criteria and limited to ESM Members where the economic and financial situation is fundamentally strong and whose government debt is sustainable. As a rule, ESM Members need to meet quantitative benchmarks and comply with qualitative conditions related to EU surveillance. An assessment shall be made on whether a potential beneficiary ESM Member qualifies for a PCCL on the basis of the following criteria:

(a) Respect of the quantitative fiscal benchmarks. The ESM Member shall not be under excessive deficit procedure and needs to meet the three following benchmarks in the two years preceding the request for precautionary financial assistance:

i. a general government deficit not exceeding 3 percent of GDP,

- ii. a general government structural budget balance at or above the country specific minimum benchmark¹,
 - iii. a debt benchmark consisting of a general government debt to GDP ratio below 60 percent or a reduction in the differential with respect to 60 % over the previous two years at an average rate of one twentieth per year;
- (b) Absence of excessive imbalances. The ESM Member should not be identified as experiencing excessive imbalances under EU surveillance;
- (c) A track record of access to international capital markets, where relevant, on reasonable terms;
- (d) A sustainable external position; and
- (e) Absence of severe financial sector vulnerabilities putting at risk the ESM Member's financial stability.

2. Eligibility criteria for granting an Enhanced Conditions Credit Line (ECCL):

Access to an ECCL shall be open to ESM Members that are not eligible to the PCCL because of non-compliance with some eligibility criteria but whose general economic and financial situation remains strong and whose government debt is sustainable.

¹ The minimum benchmark is the level of the structural balance providing a safety margin against the 3% Treaty threshold under normal cyclical conditions. It is mainly used as one of three inputs into the calculation of the minimum MTO.

ANNEX IV

Criteria for approval of loans and disbursements under the backstop facility

The criteria below represent the criteria for the approval of loans and disbursements under the backstop facility and have been determined having regard to:

- (A) the terms of reference of the common backstop to the SRF endorsed at the Euro Summit of 14 December 2018;
- (B) Recital 15B of this Treaty recalling that terms of reference of the common backstop to the SRF endorsed at the Euro Summit of 14 December 2018 foresee criteria for disbursements under the backstop facility including inter alia the principles of last resort and fiscal neutrality over the medium term, full compliance with Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (“SRM Regulation”) and with Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 (“BRRD”), and permanence of the legal framework;
- (C) Article 12(2) of this Treaty specifying that loans under the backstop facility shall only be granted as a last resort and to the extent that it is fiscally neutral in the medium term;
- (D) Article 18A(8) of this Treaty specifying that the backstop facility and its use shall be contingent upon compliance with the condition of permanence of the legal framework for bank resolution and that further provisions on the procedure on the verification of compliance with this condition and on the consequences for the backstop facility and its use shall be determined by the Board of Governors pursuant to Article 18A(1);
- (E) Article 18(5) of this Treaty specifying that the Board of Directors shall decide by mutual agreement, guided by the criteria provided for in this Annex, on loans and respective disbursements under the backstop facility;

and considering that the procedure for granting and implementing the backstop facility follows Article 18A of this Treaty and that the Board of Directors shall adopt detailed

guidelines on the modalities for implementing the backstop facility in accordance with Article 18(4) of this Treaty,

Criteria for the approval of loans and disbursements under the backstop facility:

1. Recourse to the backstop facility is of last resort. Therefore:
 - a) the financial means of the SRF available to be used in accordance with Article 76 of the SRM Regulation that are not already committed to resolution actions are depleted, including the situation where there are financial means available in the SRF, but those are insufficient for the resolution case at hand,
 - b) ex-post contributions are not sufficient or not immediately available, and
 - c) the SRB is not able to borrow on terms and conditions considered acceptable by the SRB in accordance with Articles 73 and 74 of the SRM Regulation;
2. The principle of fiscal neutrality over the medium term is respected. The repayment capacity of the SRB is sufficient to fully repay the loans granted under the backstop facility over the medium term;
3. The requested funds are available to the ESM. In case of cash disbursements, the ESM has obtained the funds on terms acceptable to the ESM or, in case of non-cash disbursements, the notes are legally created and held in custody of the applicable security depository;
4. All the parties to the Intergovernmental Agreement of 21 May 2014 on the transfer and mutualisation of contributions to the Single Resolution Fund (“IGA”), in the territories of which the relevant resolution action takes place, have complied with their obligations to transfer contributions received from the institutions authorised in their territory to the SRF;
5. There is no ongoing event of default on borrowings of the SRB from the ESM or from any other creditor, or, the SRB has presented a remedy plan in respect of any such ongoing event of default which is satisfactory to the Board of Directors;
6. The condition of permanence of the legal framework on bank resolution as defined in Article 18A(9) of the Treaty is complied with, as determined by the Board of Governors pursuant to Article 18A(1); and
7. The dedicated resolution scheme is fully compliant with European Union law and has entered into force in accordance with European Union law.