

Memorandum of Understanding on Specific Economic Policy Conditionality

The economic adjustment programme will address short- and medium-term financial, fiscal and structural challenges facing Cyprus. The key programme objectives are:

- to restore the soundness of the Cypriot banking sector and rebuild depositors' and market confidence by thoroughly restructuring and downsizing financial institutions, strengthening supervision and addressing expected capital shortfalls, in line with the political agreement of the Eurogroup of 25 March 2013;
- to continue the on-going process of fiscal consolidation in order to correct the excessive general government deficit as soon as possible, in particular through measures to reduce current primary expenditure, and maintain fiscal consolidation in the medium-term, in particular through measures to increase the efficiency of public spending within a medium-term budgetary framework, enhance revenue collection and improve the functioning of the public sector; and
- to implement structural reforms to support competitiveness and sustainable and balanced growth, allowing for the unwinding of macroeconomic imbalances, in particular by reforming the wage indexation system and removing obstacles to the smooth functioning of services markets.

1. Financial sector reform

Key Objectives

The banking sector has been severely affected by the broader European economic and sovereign crisis, in particular through its exposure to Greece. However, many of the sector's problems are home-grown and relate to overexpansion in the property market as a consequence of the poor risk management practices of banks. Furthermore, the financial sector is vulnerable because of its size relative to that of the domestic economy. The handling of problems in the sector has been complicated by the sensitivity of collateral valuations to property prices, and banks have used certain gaps in the supervisory framework to delay the recognition of loan losses, thus leading to significant under-provisioning. The banking sector would benefit from a considerable downsizing and restructuring in order to restore its solvency and viability, reinforce its resilience and regain public confidence.

Progress to date

The domestic banking sector, including the cooperative credit institutions, represented until recently 550% of GDP. The necessary downsizing and restructuring of the banking sector is already under way. The House of Representatives adopted legislation on 22 March 2013 establishing a comprehensive framework for the recovery and resolution of credit institutions, drawing, inter alia, on the relevant proposal of the European Commission¹ (EC). Under the terms of that legislation, the Central Bank of Cyprus (CBC) is the single resolution authority for banks and cooperative credit institutions alike. Using this new framework, the Cypriot authorities have proceeded with (i) the carve-out of the Greek operations of the largest Cypriot banks, (ii) the resolution of Cyprus Popular Bank and the absorption of selected assets and liabilities by the Bank of Cyprus and (iii) the recapitalisation of the Bank of Cyprus through a debt to equity conversion, without the use of public money. As a result of these actions, the Cypriot banking sector was downsized immediately and significantly to 350% of GDP and the Bank of Cyprus has been fully recapitalised in order to regain its eligible counterparty status for the purpose of its participation in regular Eurosystem monetary policy operations. Further downsizing will be achieved through the restructuring of the cooperative credit institutions. To preserve the liquidity of the Cypriot banking sector, administrative measures have also been imposed.

A. Regulation and supervision

Maintaining liquidity in the banking sector

1.1. As bank liquidity was under pressure, exceptional measures were necessary with a view to preventing large deposit outflows and preserving the solvency and liquidity of the credit institutions. Cash withdrawals, electronic payments and transfers abroad were temporarily restricted. The implementation of these measures was designed to minimise disruptions in the payment systems, and to ensure the execution of transactions essential for the functioning of the economy. The Government committed to managing the introduction and implementation of restrictions in line with the rules on the free movement of capital set out in the Treaty on the Functioning of the European Union. The impact of the restrictions

¹ http://ec.europa.eu/internal_market/bank/crisis_management/index_en.htm#framework2012

will be monitored on a daily basis with full information sharing with the European Commission (EC), the European Central Bank (ECB) and the International Monetary Fund (IMF). The restrictions on capital movements will be gradually relaxed, after consultation with the EC, the ECB and the IMF and will remain in place no longer than is strictly necessary to mitigate serious risks for the stability of the domestic financial system. A Monitoring Board comprising the EC, the EBA and the Cypriot authorities is being established to ensure the monitoring and assessment of the implementation of the temporary capital controls.

1.2. Furthermore, the Cypriot authorities will encourage banks to strengthen their collateral and liquidity buffers. The CBC, in consultation with the ECB, will continue to closely monitor the liquidity situation of the banking sector and will stand ready to take appropriate measures to maintain sufficient liquidity in the system in line with Eurosystem rules.

1.3. The authorities will request domestic banks relying on central bank funding or receiving state aid to establish and submit, quarterly, medium-term funding and capital plans, to be communicated at the end of each quarter, **starting from June 2013**, to the CBC, which will be transmitted to the ECB, the EC, the European Stability Mechanism (ESM) and the IMF. The plans should realistically reflect the anticipated deleveraging in the banking sector and reduce dependency on borrowing from the central banks, while avoiding asset fire sales and a credit crunch. The reporting template and the macroeconomic scenario will be provided by the CBC, in coordination with the ECB.

1.4. The lack of concentration limits in the liquidity framework for euro-denominated assets allowed a concentrated exposure of Cypriot banks to Greek sovereign debt. To avoid similar outcomes in the future, the CBC will update the liquidity regulations **by December 2014**, after consultation with the ECB, the EC and the IMF.

Regulation and supervision for banks and cooperative credit institutions

1.5. Strong efforts should be made to maximise bank recovery rates for non-performing loans, while minimising the incentives for strategic defaults by borrowers. The administrative hurdles and the legislative framework currently constraining the seizure and sale of loan collateral will be amended such that the property pledged as collateral can be seized within a maximum time-span of 1.5 years from the initiation of legal or administrative proceedings. In the case of primary residences, this time-span could be extended to 2.5 years. Based on a report commissioned to an independent expert, the necessary legislative changes will be submitted to the House of Representatives **by mid-2014** and implemented **by end-2014**, macroeconomic conditions permitting.

1.6. Non-performing loans are threatening bank profitability and need to be properly monitored and managed in order to safeguard the banks' capital buffers. The CBC's guidance on the classification of loans as non-performing will be amended to include all loans past due by more than 90 days. This amendment will be introduced **by 30 May 2013**. The time series for non-performing loans will be published including historical observations reaching as far back as possible.

1.7. The CBC will also create a central credit register listing all borrowers and beneficial owners, from both commercial banks and cooperative credit institutions, to enable these institutions to check new loan applications against the register. The credit register will identify the borrowers who are or were in arrears and will help monitor credit risk and large exposures. The legal framework for the credit register will be set up **by 30 September 2013** and the central credit register will be operational **by 30 September 2014**.

1.8. After analysis of the results from the due diligence exercise and taking into account best practices in the implementation of the International Financial Reporting Standards, the CBC will review, **by end-September 2013**, its current regulatory framework with respect to loan origination processes, asset impairment and provisioning, and the treatment of collateral in provisioning. Without prejudice to the conclusions of this review and to the existing regulatory and accounting framework in the EU, regulatory amendments will be introduced, drawing on technical assistance, with a view to mitigating the impact of changes in collateral values on the value of impaired assets. The new prudential regulations will enter into force **by end-March 2014**.

1.9. Legislation will be passed **by end-September 2013** to strengthen banks' governance by prohibiting commercial banks and cooperative credit institutions from lending to independent board members, including their connected parties, and removing any board members in arrears on existing debts to their banks, while lending to other board members will be prohibited above a certain threshold, which will be calibrated by the CBC. Loans and other credit facilities to each board member will be disclosed to the public. A majority of directors in banks' boards will be independent.

1.10. The CBC will introduce mandatory supervisory action based on capitalisation levels, drawing upon technical assistance and international best practices **by end-March 2014**.

1.11. The CBC will implement a unified data reporting system for the banks and the cooperative credit institutions **by end-June 2013**. The publication of the statistical data will be extended to the cooperative credit institutions, for which the CBC will disclose aggregate data covering the same elements as for banks, including balance sheet items, income statements and prudential indicators.

1.12. Stress-testing will be integrated into regular off-site bank supervision and will serve as an input into Pillar 2 assessments. Supervisory stress-tests will be carried out at an annual frequency, with the first exercise completed **before end-June 2014**.

1.13. Cooperative credit institutions play a significant role in the domestic economy and an important objective of the programme is to strengthen the cooperative credit sector. Due to its economic relevance and legal specificities, as well as deficiencies in risk assessment, this segment of the financial sector requires stronger regulation and supervision. The Cypriot authorities will align the regulation and supervision of cooperative credit institutions to that of commercial banks. Since December 2012, the supervision of cooperative credit institutions is being conducted independently of considerations for the development of this sector. The supervision of cooperative credit institutions will be detached from the Ministry of Commerce, Trade and Tourism and integrated into the CBC **by end-July 2013**, for which legislation will be passed **by end-June 2013**. The Cypriot authorities will present, for assessment by the EC, the IMF and the ECB, a time-bound, actionable plan to achieve this **by end-June 2013**. **By end-May 2013** legislation will be introduced to authorise the CBC to instruct the current cooperative credit sector supervisor to intervene also at the level of individual cooperative credit institutions.

1.14. The accounts of cooperative credit institutions, above a size to be decided by the CBC after consultation with the EC, the ECB and the IMF, will be subject to an independent annual audit by an external, recognised and independent auditing firm. The CBC will have the right to overturn the selection of an auditor by any cooperative credit institution.

Monitoring of corporate and household indebtedness

1.15. The Cypriot authorities will step up the monitoring of the indebtedness of the corporate and household sectors and prepare quarterly reports, including information on the distribution of assets and liabilities across households, and an assessment of debt-servicing capacity and refinancing activities. Data from surveys will be used until the credit register becomes fully operational. The Financial Stability Report, to be published on a yearly basis **as of December 2013**, will include an extended analysis on corporate and household indebtedness. These enhanced monitoring actions will be put in place by **end-June 2013**.

1.16. Measures will be taken to deal with troubled borrowers following the implementation of the resolution and recapitalisation of weak banks. A framework for targeted private-sector-debt restructuring will be established to facilitate new lending, and diminish credit constraints. Ways will be explored to improve the funding constraints of SMEs. First, **by end-April 2013** a directive will be circulated by the CBC to recommend banks to provide a grace period of 60 days without penalties to pay interest only on loans coming due. This legislation aims to prevent disruptive effects in related payments throughout the whole economy. Second, legislation will be passed, if needed, to eliminate any tax deterrents to credit institutions and customers that may currently be in place with respect to loan restructurings. This will include elimination of any tax deterrents with respect to any losses of income associated with voluntary early loan repayments or discounts given for such repayments to problematic but viable borrowers. Third, **by end-June 2013** the Cypriot authorities will develop a framework and issue legislation as needed to address legal, administrative or other impediments affecting the restructuring of viable borrowers, while preserving credit discipline. The approach will be based on market-based voluntary workouts, underpinned by measures to strengthen the legal framework to support debt restructuring. In this regard, in addition to the central credit registry, a framework for seizure and sale of loan collateral will be implemented. Moreover, amendments will be introduced to ensure the reduction of built-in costs (fees, requisites) for credit institutions and clients during restructuring. Finally, a mediation service between banks and their clients to achieve fair debt restructuring will be established **by end-June 2013**.

Increasing financial transparency

1.17. The anti-money laundering (AML) framework will be further strengthened in line with best practice. While Cyprus' AML regime received an overall positive evaluation in the 2011 MONEYVAL report, the Cypriot authorities are committed to further enhancing their standing by taking a number of measures, in line with recommendations made by IMF staff.

- The legal framework will be further revised² to enable the provision of the widest possible range of cooperation to foreign counterparts (including with regard to the laundering of the proceeds of tax crimes involving fraudulent activity), and by giving precision to the scope of cooperation by the financial intelligence unit.
- Following the completion of the April 2013 audit, the findings and recommendations contained in the final reports of MONEYVAL and the auditor will be taken into account in the action plan envisaged in the programme, and the customer due-diligence and suspicious-transaction reporting procedures will be enhanced following the audit report recommendations **by Q2-2013**.
- Furthermore, to address concerns that Cypriot corporations and trusts might be misused, the Cypriot authorities have committed to an action plan on entity transparency to revise the legal framework and ensure its dutiful implementation, so that adequate, accurate and timely information on the beneficial ownership of Cypriot legal persons and arrangements can be provided to foreign counterparts in response to requests related to money laundering and tax matters. To this end, the action plan will envisage that the Cypriot authorities will promptly revise relevant pieces of legislation, including, inter alia, the Trust and Company Services Provider law and the Anti-Money Laundering law **by Q2-2013**. In addition, directives and circulars issued by supervisory authorities (CBC, Cyprus Bar Association, and Institute of Certified Public Accountants of Cyprus) will be revised to lay down clear implementing procedures that are in line with relevant legislation and international standards **by Q2-2013**.
- As part of the action plan, the Cypriot authorities intend to establish trust registers with the supervisory authorities and launch a third-party assessment of the functioning of the Registrar of companies. The trust registers will be for all trusts established under Cyprus law, will be kept by the relevant supervisory authorities in order to enable them to carry out their duties, and will contain the name of the trust and the name and address of the trustee.
- Finally, the supervision department of the CBC will review its off-site and on-site supervisory procedures to further implement a risk-based approach to AML supervision **by Q4-2013**. In particular, the off-site supervisory tool will include monthly reporting by credit institutions on the breakdown by country of origin of the main depositors and the main beneficiaries of loans (and of their beneficial owners).

B. Recapitalisation, due diligence, resolution and restructuring

² The legal framework was substantially revised in December 2012.

1.18. A Coordination Committee with representatives from the CBC and the Ministry of Finance will be set up to oversee the implementation of the financial sector reform programme and to monitor developments in the banking sector.

Due diligence and restoring adequate capital buffers

1.19. The CBC will increase the minimum Core Tier 1 capital ratio from the present level of 8% to 9% **by 31 December 2013**.

1.20. An international consultant has conducted an accounting and economic value assessment (due diligence review) of the credit portfolios of Bank of Cyprus, Cyprus Popular Bank, Hellenic Bank and a sample representing about 63% of the cooperative credit institutions' assets, as well as Alpha Bank Cyprus and Eurobank Cyprus. The assessment, which was overseen by a Steering Committee including representatives of the Cypriot authorities, the EC, the ECB, the EBA and the ESM (as members) and the IMF (as observer), started formally on 4 October 2012, with the selection of the external consultant. This due diligence review included both an accounting review and an assessment of the economic value of banks' assets. Its results formed the basis for the bank-by-bank stress tests.

1.21. The bank-by-bank stress tests conducted by the CBC resulted in an overall capital shortfall of EUR 6 billion under a baseline scenario with a Core Tier 1 target ratio of 9% and a shortfall of EUR 8.9 billion under the adverse macroeconomic scenario with a Core Tier 1 target ratio of 6%. These numbers include one foreign bank, but do not include the EUR 1.8 billion of capital already injected by the Cypriot State in Cyprus Popular Bank in June 2012, which will be rolled over, nor do they include the capital needs of those credit cooperative institutions that were not covered by the due diligence exercise. The specific capital needs were communicated to each participating bank on 18 March 2013.

1.22. In response to the results of the due diligence exercise, Bank of Cyprus and Cyprus Popular Bank have been intervened and restructured using the recently-adopted resolution law. The other commercial banks will be instructed by the CBC to take the necessary steps to ensure that they meet regulatory requirements in a stress scenario by end-September 2013. Cooperative credit institutions will be instructed to meet capital regulatory requirements by July 2013. If necessary, public programme funds will be used to recapitalize these institutions in accordance with EU state-aid rules.

Restructuring and resolution of Cyprus Popular Bank and Bank of Cyprus

1.23. The accounting and economic value assessment already mentioned revealed that the two largest banks of Cyprus were insolvent. To address this situation the government has implemented a far-reaching resolution and restructuring plan. In order to prevent the build-up of future imbalances and to restore the viability of the sector, while preserving competition, a fourfold strategy was adopted, which does not involve the use of taxpayer money. The Cypriot authorities will closely monitor the implementation of this strategy.

1.24. First, all Greek-related assets (including shipping loans) and liabilities were carved-out, estimated in the adverse scenario at EUR 16.4 billion and EUR 15.0 billion, respectively. The Greek assets and liabilities were acquired by Piraeus Bank, the restructuring of which will be dealt with by the Greek authorities. The carve-out was based on an agreement signed on 26 March 2013. With the book value of the assets at EUR 19.2 billion, the carve-out has substantially reduced the cross exposures between Greece and Cyprus.

1.25. With respect to the UK branch of Cyprus Popular Bank, all the deposits were transferred to the UK subsidiary of the Bank of Cyprus. The associated assets were folded into the Bank of Cyprus.

1.26. Second, Bank of Cyprus is taking over -via a purchase and assumption procedure- almost the entire Cypriot assets of Cyprus Popular Bank at fair value, as well as the latter's insured deposits and Emergency Liquidity Assistance exposure at nominal value. The uninsured deposits of Cyprus Popular Bank will remain in the legacy entity. The aim is for the value of the transferred assets to be higher than the transferred liabilities with the difference corresponding to the recapitalisation of Bank of Cyprus by Cyprus Popular Bank amounting to 9% of the risk-weighted assets transferred. Bank of Cyprus is being recapitalised to reach a core tier one ratio of 9% under the adverse scenario of the stress test by the end of the programme, which should help to restore confidence and normalise funding conditions. The conversion of 37.5% of the uninsured deposits in Bank of Cyprus into class A shares with full voting and dividend rights provides the largest part of the capital needs with additional equity contributions from the legacy entity of Cyprus Popular Bank. Part of the remaining uninsured deposits of Bank of Cyprus will be frozen temporarily until the completion of the independent valuation referred to in the paragraph below.

1.27. Third, to ensure that the capitalisation targets are met, a more detailed and updated independent valuation of the assets of Bank of Cyprus and Cyprus Popular Bank will be completed, as required by the bank resolution framework, **by end June 2013**. To this end, **no later than mid-April 2013**, the terms of reference of the independent valuation exercise will be agreed in consultation with the EC, the ECB, and the IMF. Following that valuation, and if required, an additional conversion of uninsured deposits into class A shares will be undertaken to ensure that the core tier one capital target of 9 % under stress by end-programme can be met. Should Bank of Cyprus be found to be overcapitalised relative to the target, a share-reversal process will be undertaken to refund depositors by the amount of over-capitalisation.

1.28. Finally given the systemic importance of Bank of Cyprus, it is important that the operations of Cyprus Popular Bank are quickly integrated, operational efficiency is improved, the recovery of non-performing loans is optimised with the work-out implemented by the going concern entity and the funding conditions are progressively normalised. In order to achieve these goals and to ensure that Bank of Cyprus can operate with maximum safeguards to preserve stability and continued viability during a transition period, the CBC, following consultation with the Ministry of Finance, will appoint a new Board of Directors and an acting Chief Executive Officer until Bank of Cyprus' new shareholders are organised in a general meeting. The CBC will require the Board of Directors to prepare a restructuring plan defining the bank's business objectives and credit policies **by end- September 2013**. To

ensure that normal business activities are not affected, institutional arrangements will be designed by **end-June 2013** in accordance with Cypriot law to insulate Bank of Cyprus from reputational and governance risks.

Restructuring and recapitalisation of other commercial banks

1.29. Commercial banks with a capital shortfall, which are deemed viable, can, if other measures do not suffice, ask for recapitalisation aid from the State. In order to ensure timely recapitalisation, the Cypriot authorities should submit **by 30 November 2013** restructuring plans for these banks to the EC, which are drawn up in compliance with EU state-aid rules, while also informing the ECB and the IMF.

1.30. Capital should, to the largest extent possible, be raised from private sources including internal measures, asset disposals and liability management exercises. Banks in need of aid from the State will not be recapitalised before their restructuring plans have been formally approved under state-aid rules. The terms and remuneration of the state aid will comply with the EU state-aid rules, with due consideration for financial stability. The credit institutions benefiting from capital injections will be subject to specific management rules and restrictions, including on pay levels of executive and supervisory board members, and to a restructuring process in line with EU competition and state-aid requirements, which will be scrutinised by an external monitoring trustee. If the recapitalisation takes the form of state aid, funds for the recapitalisation of these banks will be made available in the context of the programme.

Restructuring and recapitalisation of cooperative credit institutions

1.31. With a view to minimising state aid, cooperative credit institutions requiring recapitalisation should seek private sector participation **no later than 31 July 2013**.

1.32. As regards the cooperative credit institutions, the CBC, assisted by the current supervisor and in consultation with the EC, the ECB and the IMF, will ascertain the viability of individual cooperative credit institutions and design a strategy for restructuring and recapitalising the sector.

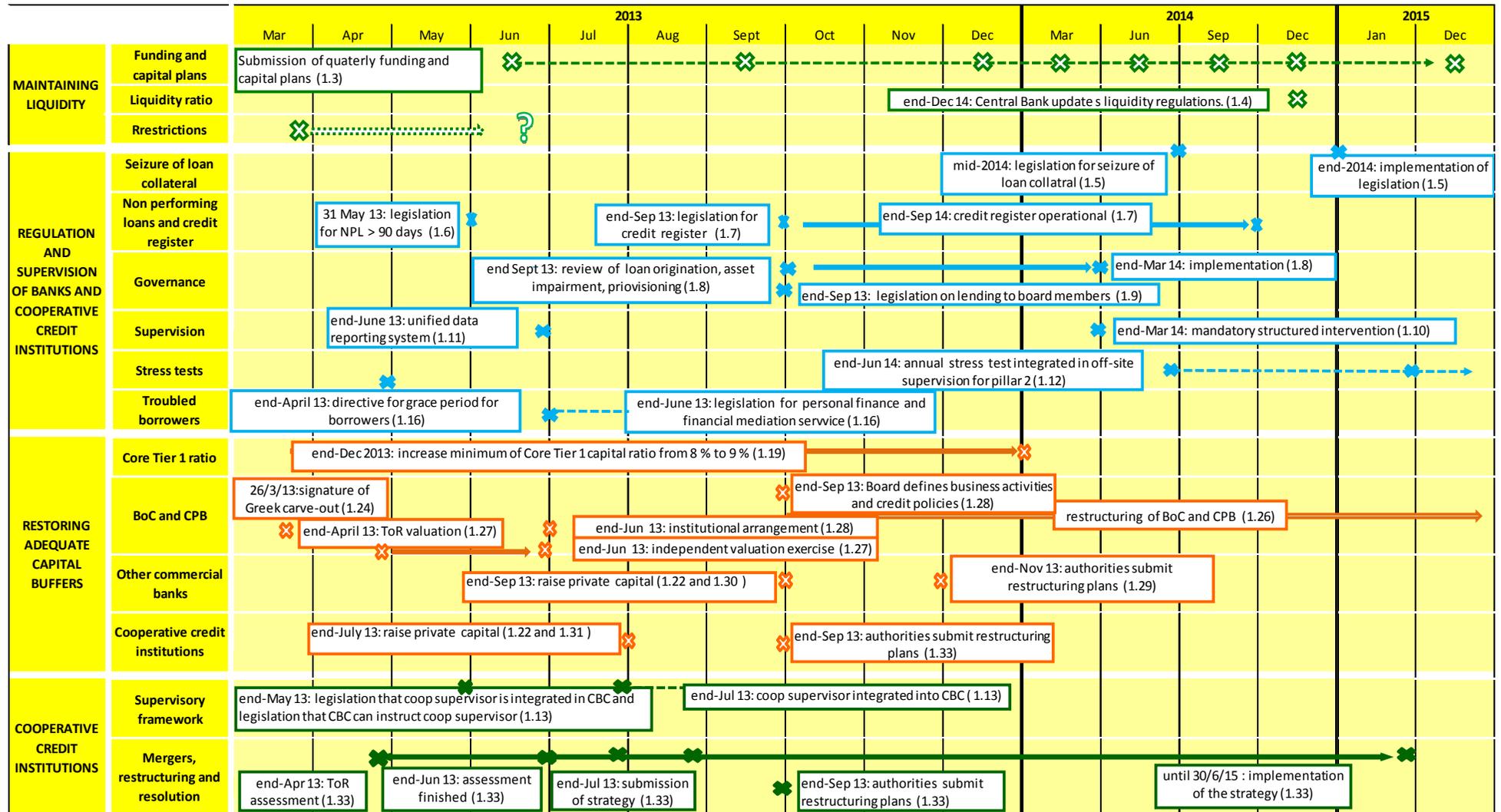
1.33. This strategy, including the possibility of the application of mergers and restructuring, will be submitted to the EC, also informing the ECB and the IMF **by end-July 2013** based on an assessment of capital needs and viability to be finalised **by June 2013**. The terms of reference for this assessment will be finalised in consultation with the EC, the ECB and the IMF **by April 2013**. The restructuring plans for the cooperatives will be submitted to the EC **by September 2013**. Cooperative credit institutions in need of aid from the State will not be recapitalised before their restructuring plans have been formally approved under state-aid rules. The terms and remuneration of the state aid will comply with the EU state-aid rules, with due consideration for financial stability. The cooperative credit institutions benefiting from capital injections will be subject to specific management rules and restrictions, and to a restructuring process in line with EU competition and state-aid requirements, which will be scrutinised by an external monitoring trustee. Implementation of the strategy should be completed **by 30 June 2015**. Until the overall strategy has been agreed, there will be no change in the structure of the sector, without prior consultation with the EC, the ECB and the IMF.

1.34. Sufficient funds for the recapitalisation of the cooperative credit institutions will be made available from the programme following the first programme review and will be deposited in a dedicated account with the Central Bank to boost confidence in the system.

The amounts will be injected following the identification of the capital needs and in accordance with the agreed strategy, after approval of the restructuring plans. A new governance structure will be established, which allocates clear levels of continued accountability and provides for proper incentives to avoid moral hazard, having regard to a two-tier supervisory system applied in other EU Member States.

1.35. Information pertaining to articles 1.4, 1.13, 1.14, 1.32 and 1.33, will also be shared with the ESM.

Time span for conditionality in the financial sector



2. Fiscal policy

Key objectives

Putting public finances on a sustainable path is of overriding importance in order to stabilise the economy and to restore the confidence of companies, citizens and foreign investors in the longer-term economic prospects of Cyprus.

In this context, the objectives are: (1) to continue the on-going process of fiscal consolidation in order to achieve a 3% of GDP primary surplus in 2017, 4% of GDP in 2018 and maintain at least such a level thereafter; (2) to correct the excessive general government deficit as soon as possible; (3) to this end, to fully implement the fiscal consolidation measures listed in Annex 1 and the fiscal consolidation measures for 2013 listed in paragraphs 2.2 – 2.11 below; (4) to achieve the annual budgetary targets as set out in this Memorandum of Understanding (MoU) through high-quality permanent measures, and additional measures in the outer years, in particular to reduce the growth in expenditure on the public sector wage bill, social benefits and discretionary spending, while minimising the impact of consolidation on vulnerable groups; and (5) to maintain fiscal consolidation over the medium term, converging towards Cyprus' medium-term budgetary objective of a balanced budget in structural terms, by containing expenditure growth, improving the structure of taxation and undertaking fiscal-structural measures (see Section 3), including the implementation of a Medium-Term Budgetary Framework designed in accordance with EU specifications.

The Cypriot authorities adopted a number of fiscal measures for 2012-2014 as well as initial steps in relation to fiscal-structural reforms.³ The authorities commit to the full implementation of these measures (see Annex I) and to monitoring the budgetary effect of the measures taken on a monthly basis. Any deviation from the projected budgetary effect of the measures will be evaluated and addressed accordingly in the quarterly programme reviews, taking into account macroeconomic developments. The fiscal measures taking effect in 2012 were included in the amended 2012 Budget Law, which was submitted to the House of Representatives after consultation with the programme partners (i.e. EC/ECB/IMF). Likewise, the budgetary measures with effect in 2013 were embedded in the 2013 Budget Law after consultation with the programme partners. The impact of the additional permanent measures for 2014 has been embedded in the multi-annual expenditure targets accompanying the 2013 Budget Law.

In the event of underperformance of revenues or higher social spending needs, the government should stand ready to take additional measures to preserve the programme objectives, including by reducing discretionary spending, taking into account adverse macroeconomic effects. Over the programme period, cash revenues above programme projections, including any windfall gains,⁴ will be saved or used to reduce debt. If instead over-performance materialises, to the extent that it is deemed permanent, this can reduce the need for additional measures in the outer years.

³ The adopted bills amounted to consolidation measures of about 5.0% of GDP for 2012-2016, in particular 0.3% of GDP in 2012, 2.3% of GDP in 2013, and 1.9% of GDP in 2014, and ½% of GDP in 2015-2016 based on the macro-economic projections of 23 November 2012.

⁴ Windfall gains associated with hydrocarbons shall mean only the blocks' licencing fees or related signature bonuses for exploration thereof. It is noted that any streams of revenues associated with hydrocarbon exploitation are dealt with under section 5.6, second bullet-point, indent 3.

Fiscal policy in 2013

2.1. The Cypriot authorities will achieve a general government primary deficit of no more than EUR 395 million (2.4% of GDP) in 2013. The 2013 deficit target may be revised to incorporate compensation for provident and retirement funds in Cyprus Popular Bank to ensure equal treatment with such funds in Bank of Cyprus following the conversion of deposits into equity. Given the social welfare nature of provident and retirement funds, the Cypriot authorities will use the necessary amount out of programme financing for such compensation.

Over 2013, the Cypriot authorities will rigorously implement the 2013 Budget Law with additional permanent measures of at least EUR 351 million (2.1% of GDP).

After consultation with the programme partners, the 2013 Budget Law was adopted in December 2012. The budgetary target for 2013 was also adopted, accompanied by elements for a medium-term budgetary framework, in particular expenditure ceilings for the budget years 2013-2015 for each government entity.

Additional permanent measures for 2013 will be adopted after review by and consultation with the programme partners and prior to the granting of the first disbursement of financial assistance (applicable to the measures outlined in 2.2, 2.3, 2.4, 2.5, 2.7, 2.8, 2.9, 2.10 and 2.11).

To this end, the Cypriot authorities will amend the 2013 Budget Law, which will contain the additional consolidation measures, and, accordingly, the revised general government primary deficit. In addition, the authorities will update the expenditure ceilings for the budget years of 2013-2015.

The additional consolidation measures will include the following and will, where legally possible, be applicable retroactively from 1 January 2013:

Revenue measures

2.2. Ensure additional revenues from property taxation of at least EUR 75 million by: (i) updating the 1980 prices through application of the CPI index for the period 1980 to 2012; and/or (ii) amending tax rates and/or (iii) amending value bands.

2.3. Increase the statutory corporate income tax rate to 12.5%.

2.4. Increase the tax rate on interest income to 30%.

2.5. Increase the bank levy on deposits raised by banks and credit institutions in Cyprus from 0.11% to 0.15% with 25/60 of the revenue earmarked for a special account for a Financial Stability Fund.

2.6. Undertake by June 2013 a reform of the tax system for motor vehicles, based on environmentally-friendly principles, with a view to raising additional revenues, through the annual road tax, the registration fee and excise duties, including motor fuel duties. The reform will take into account the related study of the University of Cyprus.

2.7. Complete the increase in fees for public services by at least 17% of the current values.

Expenditure measures

- 2.8. Introduce measures to control healthcare expenditure (see 3.2, measures a), b), c), d) and e).
- 2.9. Reduce the expenditure on various housing schemes by at least EUR 36 million by consolidating and streamlining the schemes for the displaced and the Comprehensive Housing Scheme, discontinuing the special grant for acquiring a first residence and ceasing the provision of loans and loan guarantees related to house construction and acquisition under all government-administered housing schemes.
- 2.10. Further streamline the Easter allowance to pensioners by limiting the benefit to pensioners with a monthly per household income of at most EUR 500.
- 2.11. Implement a scaled reduction in emoluments of public and broader public sector pensioners and employees as follows: EUR 0-2.000: 0.8%; EUR 2.001-3.000: 1%; EUR 3.001-4.000: 1.5%; above EUR 4001: 2.0 %.
- 2.12. Introduce as of the budget year 2014 structural reform measures in the educational system, notably, a reduction of the number of teachers seconded to the Ministry of Education and Culture, the removal of 1:1.5 teaching time ratio from evening schools of general and technical and vocational education, the elimination of teaching time concession to teachers for being placed in two or more educational districts, the elimination of mentoring components for pre-service and in-service training for newly appointed teachers and the reduction of the cost of afternoon and evening programmes.

Fiscal policy in 2014

The Cypriot authorities will achieve a deficit of the general government primary balance of no more than EUR 678 million (4¼% of GDP) in 2014.

The budgetary target and the permanent measures for 2014 already adopted by the Cypriot authorities (see Annex I) were considered in the adopted Medium-Term Budgetary Framework, accompanying the 2013 Budget Law. After review by and consultation with the programme partners **by mid-September 2013**, the 2014 Budget Law will be adopted **by mid-December 2013**. The 2013-2015 expenditure ceilings will be updated for the period 2014-2016 and will accompany the 2014 Budget Law document. The presentation of these ceilings will evolve into a full-fledged Fiscal Strategy Statement in line with the MTBF requirements contained in Directive 2011/85/EU. Any deviation from the budgetary objectives contained in the 2013-2015 framework will be properly documented and reasons for such deviations will be provided.

Fiscal policy in 2015-16

The Cypriot authorities will achieve a deficit in the 2015 general government primary balance of no more than EUR 344 million (2.1% of GDP) and a surplus in the 2016 general government primary balance of at least EUR 204 million (1.2% of GDP).

After review by and consultation with the programme partners the 2015 and 2016 Budget Laws will be adopted, respectively, **by mid-December 2014** and **mid-December 2015**.

The 2014-2016 expenditure ceilings will be updated for the period 2015-2017 and will accompany the 2015 Budget Law document. Any deviation from the budgetary objectives contained in the 2014-2016 framework will be properly documented and reasons for such deviations will be provided. In Q2-2016, the Cypriot authorities will present the programme partners with a provisional list of measures to attain a primary surplus of 3% of GDP in 2017

and 4% of GDP in 2018. The measures required will be included in the draft 2017 Budget Law.

3. Fiscal-structural measures

Key objectives

Cyprus enjoyed above euro-area average growth rates for more than a decade and in parallel expanded its public sector employment, support and services considerably. Looking ahead, if the public sector is to provide appropriate support for the sustainable and balanced growth of the Cypriot economy, fiscal-structural reform steps are needed to ensure the long-term sustainability of public finances, to provide the fiscal space necessary to support the diversification of the economy, and to alleviate the adverse impact on jobs and growth arising from Cyprus' exposure to external shocks. In this context, the objectives are: (1) to improve the efficiency of public spending and the budgetary process by means of an effective Medium-Term Budgetary Framework (MTBF) that is fully compliant with the Directive on requirements for budgetary frameworks and the Treaty on Stability, Coordination and Governance (TSCG); (2) implement further reforms of the pension system to address the high projected increase in pension spending; (3) take further steps to control the growth of health expenditure; (4) enhance tax revenues by improving tax compliance and collection; (5) undertake reforms of the public administration to improve its functioning and cost-effectiveness, notably by reviewing the size, employment conditions and functional organisation of public services; (6) undertake reforms of the overall benefit structure with the aim of producing an efficient use of resources and ensuring an appropriate balance between welfare assistance and incentives to take up work; and (7) elaborate a programme for improving the efficiency of state-owned and semi-public enterprises and initiate a privatisation programme.

Pension reform

3.1. While taking note that the Cypriot authorities have recently introduced significant reforms (as noted below), the implementation of further reforms of the pension system to address the high projected increase in pension spending may be necessary in order to put the pension system on a sustainable path. The overarching objectives of the reforms are: i) to reduce the increase in pension spending, ii) to ensure the long-term financial viability of the pension system through 2060, and iii) to limit the fiscal subsidy to the General Social Insurance Scheme for credited contributions for current and future pensioners and for the non-contributory pension.

In view of this, the Cypriot authorities have implemented/agreed to implement the following measures:

- separate in accounting terms the non-contributory pension benefit from the insurance-based (contributory) pension scheme **by 30 June 2013**. The non-contributory part will be tax financed;
- for the General Social Insurance System (GSIS): (i) increase the minimum age for entitlement to an unreduced pension by 6 months per year to be brought in line with the statutory retirement age; (ii) introduce an early retirement penalty of 0.5% per month of early retirement so as to make early retirement actuarially neutral; (iii) introduce an automatic adjustment of the statutory retirement age

every 5 years in line with changes in life expectancy at the statutory retirement age, to be applied for the first time in 2018; and (iv) gradually (1 year per year) extend the minimum contributory period in the system from the current 10 years to at least 15 years over the period 2013-17 (in place since December 2012) ;

- for the Government Employee Pension Scheme (GEPS): (i) increase the statutory retirement age by 2 years for the various categories of employees; (ii) increase the minimum age for entitlement to an unreduced pension (by 6 months per year) to be in line with the statutory retirement age; (iii) while preserving acquired rights, introduce an early retirement penalty of 0.5% per month of early retirement so as to make early retirement actuarially neutral; (iv) introduce an automatic adjustment of the statutory retirement age every 5 years in line with changes in life expectancy at the statutory retirement age, to be applied for the first time in 2018; (v) introduce a change of indexation of all benefits from wages to prices; and (vi) pension benefits will be calculated on a pro-rata basis taking into account life-time service as of January 2013 (in place since January 2013);
- ensure that total annual public pension benefits for public sector employees and state officials do not exceed 50% of the annual pensionable salary earned at the time of retirement from the post with the highest pensionable salary of the official's career in the public sector and broader public sector (in place since January 2013);
- ensure that pension entitlements that will accrue after 1 January 2013 are considered as personal income, thus becoming fully taxable also in the case in which they are received as a lump-sum payment. At the same time, employees will be granted the option of converting all or part of the lump-sum into an actuarially neutral annuity (in place since January 2013); and
- ensure that all of the above measures aimed at the GEPS will apply also to pension schemes in the broader public sector and to pension schemes for hourly-paid public employees.

An actuarial study for the GSIS will be carried out and submitted for peer review in the Ageing Working Group of the Economic Policy Committee **by end-July 2013**. The objective of the actuarial study is to provide additional reform options to ensure the long-run viability of the national pension system.

The actuarial study should project the scheme's finances on a cash basis. Given the financial sustainability focus, on the revenues side, the study should not take into account any government subsidy (i.e. contribution that is currently at 4.3% of the payroll and the return on the accumulated notional reserves as at the start of the projection period) with the exception of credited contributions and the contributions made by the government as an employer on behalf of its employees. On the expenditures side, the study should only take into account benefits related to contributions paid and credited contributions, i.e. excluding the costs related to the top-up for the minimum pension (which is considered to be tax financed). The study should analyse the impact of additional reform options such as benefit reductions (while considering adequacy), an increase in the statutory retirement age and increases in contribution rates or combinations thereof taking into account the impact on labour costs.

After review by and consultation with the programme partners, if needed, a comprehensive reform with the aim of establishing the long-run viability of the system, will be carried out; and, this reform will be adopted **by end-December 2013** and enter into force **in Q1-2014**.

Health care expenditure

3.2. To strengthen the sustainability of the funding structure and the efficiency of public healthcare provision, the following measures will be adopted prior to the granting of the first disbursement of financial assistance:

- a) abolish the category of beneficiaries class "B" and all exemptions for access to free public health care based on all non-income related categories except for persons suffering from certain chronic diseases depending on illness severity. Introduce as a first step towards a system of universal coverage a compulsory health care contribution for public servants and public servant pensioners of 1.5% of gross salaries and pensions. The measure will be reviewed **by Q2-2014** with the programme partners. For families with three or more dependent children, the participation in this health care scheme will be voluntary;
- b) increase fees for medical services for non-beneficiaries by 30% to reflect the associated costs of medical services and create a co-payment formula with zero or low admission fees for visiting general practitioners, and increase fees for using higher levels of care for all patients irrespective of age;
- c) introduce effective financial disincentives for using emergency care services in non-urgent situations;
- d) introduce financial disincentives (co-payment) to minimise the provision of medically unnecessary laboratory test and pharmaceuticals; and
- e) adopt a new decision by the Council of Ministers concerning a restructuring plan for public hospitals, improving quality and optimising costs and redesigning the organisational structure of the hospital management, by putting into practice recommendations from the 2009 "Public Hospital Roadmap".

In addition, the programme partners will review and be consulted on the following measures before their implementation:

- f) assess and publish, before parliamentary discussion, the potential risks and benefits of the planned introduction of the National Health System (NHS) in an updated actuarial study, taking into account possible proposals for implementing NHS in stages **by Q2-2013**;
- g) make the award of the tender for the IT-infrastructure conditional upon the results of the study and the decision for implementing the NHS;
- h) review income thresholds for free public health care in comparison to the eligibility criteria for social assistance while ensuring that co-payments to public health care are set so as to protect individuals/households effectively from catastrophic health expenditures **by Q4-2013**;
- i) create protocols for laboratory tests and the prescription of pharmaceuticals based on thorough scientific evidence;
- j) introduce a coherent regulatory framework for pricing and reimbursement of goods and services based on the actual level of costs incurred in accordance with Article 7 of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011. An interim report will be ready **by Q3-2013**;
- k) conduct an assessment of the basket of the top 4 publicly reimbursable healthcare products in terms of annual spending and prepare a report to establish an integrated system for health-technology assessment to increase the cost-effectiveness of the basket of publicly reimbursed products; and prepare the implementation of 10 new

clinical guidelines focusing on high annual volume and high cost diseases **by Q2-2013**;

- l) start coding inpatient cases by the system of diagnosis-related groups (DRGs) with the aim of replacing the current hospital payment system by payments based on DRGs **by Q3-2013**;
- m) in a first step, establish working time in the Health Service, in conjunction with moving the starting time by half an hour (from 7.30 to 8.00) and extending the flexibility period from a half to one hour. With this modification, the weekly working hours of public officers remain unchanged, but are distributed throughout the year as follows: 37 ½ hours per week, 7 ½ hours per day, daily (Monday to Friday): 8.00/9.00 to 15.30/16.30. The same applies for the transitional period of 1.1.2013-31.8.2013 but the starting time remains the same (7:30) and thus the ending time is moved back by half an hour (15:00/16:00). Following a review, in a second step, revise the regular working hours and stand-by shifts of healthcare staff, including rules to increase the mobility of staff; revise current regulations on overtime pay and fully implement existing laws on recording/monitoring overtime payments (see 3.11) **by Q1-2014**; and
- n) define a basket of publicly-reimbursable medical services based on objective, verifiable, criteria, including cost-effectiveness criteria **by Q2-2013**.

Furthermore, the Cypriot authorities will consider establishing a system of family doctors acting as gate-keepers for access to further levels of care.

Budgetary framework

3.3. The Cypriot authorities will:

- provide for the establishment of a Fiscal Council with a statutory regime, functions, nomination procedures for its governing body and funding arrangements grounded in law **by Q2-2013**;
- complete the adoption of the law transposing Council Directive 2011/85/EU on requirements for budgetary frameworks, and provisions pertaining to the fiscal compact of the Treaty on Stability, Coordination and Governance (TSCG) on the basis of the Common Principles for national fiscal correction mechanisms laid down in Commission Communication COM(2012)342, with implementing texts ensuring that adopted measures are fully effective **by Q2-2013**. In particular, integrate the presentation of the existing multi-annual budgetary objectives (MoU fiscal targets and the rolling three-year expenditure ceilings) into a comprehensive Fiscal Strategy Statement in compliance with MTBF requirements in the sense of Directive 2011/85/EU to guide the preparation of the 2014 budget **by Q2-2013**; and
- submit to the House of Representatives a draft high-level Fiscal Responsibility and Budget System Law applicable to the entire general government sector. The draft law will encompass, inter alia, macro-fiscal policy-making, and budget formulation and approval. It will address remaining gaps and inconsistencies and codify existing good budget practices **by Q4-2013**.

Public private partnerships (PPPs)

3.4. The Cypriot authorities will:

- create an inventory of PPPs including information on the objectives of current and planned PPPs and more detailed information on signed contracts, including their nature, the private partner, capital value, future service payments, size and nature of contingent liabilities, amount and terms of financing. In addition, an inventory of contingent liabilities including information on the nature, intended purpose, beneficiaries, expected duration, payments made, reimbursements, recoveries, financial claims established against beneficiaries, waivers of such claims, guarantee fees or other revenues received, indication of amount and form of allowance made in the budget for expected calls, and forecast and explanation of new contingent liabilities entered into in the budget year will be compiled. The inventories will be shared **by Q3-2013** with the programme partners. As of 2014, the inventories will be updated annually and included as “Statement of PPPs” and “Statement of Contingent Liabilities” in appendices to the annual budget law and to the annual financial report;
- put in place an adequate legal and institutional framework for PPPs designed according to best practices, including ex-ante assessment and monitoring of the fiscal risks of engaging in PPPs and concessions as compared to other public investments. A proposal for such a strengthened legal and institutional framework for PPPs should be drafted **by Q3-2013** and implemented **by Q4-2013**; and
- commit not to enter into any new tendering process and not to sign any new PPP contract before the implementation of the legal and institutional PPP framework, excluding any project having reached commercial close by end-October 2012.

State-owned enterprises and privatisation

3.5. As regards extra-budgetary funds and entities, in particular the State-Owned Enterprises (SOEs) and other state-owned assets, the Cypriot authorities will:

- establish an inventory of assets, owned by central government, municipalities and regional administrations, including real estate and land. As a first step, priority will be given to assets with the highest commercial value, including at least one third of SOEs **by Q2-2013** and the remaining SOEs **by Q3-2013**. This inventory will indicate which SOEs could be subject to divestment or restructuring or liquidation. The inventory of the largest and most valuable real estate and land assets will be ready **by Q3-2013**. The full inventory of all assets (SOEs, real estate and land) will be completed **by Q4-2013**. The inventory will be gradually submitted to the programme partners;
- prepare a plan to strengthen the governance of SOEs in accordance with international best practices and draft a report reviewing the operations and finances of SOEs (see 3.11) **by Q3-2013**. The report will assess these companies' business prospects, the potential exposure of the government to the SOEs and the scope for orderly privatisation. The Cypriot authorities will adopt the necessary legal changes to fulfil this requirement **by Q4-2013**. No additional SOEs will be created throughout the duration of the Programme; and
- submit to the House of Representatives a draft law to regulate the creation and the functioning of SOEs at the central and local levels and enhance the monitoring powers of the central administration, including reporting on SOEs in the context of the annual budgetary procedure **by Q4-2013**.

3.6. The Cypriot authorities will initiate a privatisation plan to help improving economic efficiency through enhanced competition and encouragement of capital inflows, and to help restoring debt sustainability:

- This plan should consider the privatisation prospects of state-owned enterprises (SOEs) and semi-governmental organisations (SGOs), including, inter alia, CyTA (telecom), EAC (electricity), CPA (ports), as well as real estate/land assets. For the privatisation of natural monopolies, an appropriate regulatory framework is a prerequisite. The provision of basic public goods and services by privatised industries will be fully safeguarded, in line with the national policy goals and in compliance with the EU Treaty and appropriate secondary legislation rules;
- The privatisation plan will be based on the report reviewing the operations and finances of SOEs, as well as the inventory of assets. The privatisation plan will be created after consultation with the programme partners, including asset-specific timelines and intermediate steps **by Q3-2013**;
- In parallel, the specific legal and institutional framework for the privatisation process will be drafted **by Q3-2013** and implemented **by Q4-2013**, after consultation with the programme partners; and
- The privatisation plan identified by the Government after consultation with the programme partners will raise at least EUR 1 billion by the end of the programme period and an additional EUR 400 million by 2018 at the latest.

Revenue administration, tax compliance, and international tax cooperation

3.7. The Cypriot authorities will propose a comprehensive reform plan to improve the effectiveness and efficiency of tax collection and administration **by Q4-2013**, for implementation as of the budget year 2014. The reform shall encompass the following elements:

- attribute personal responsibility for payment of company taxes to those, who -in the case of non-listed companies- truly and effectively control a company;
- attribute personal responsibility to the responsible manager for fraudulent filing of company taxes;
- strengthen powers by the tax authorities to ensure payment of outstanding tax obligations, e.g. by having authority to seize corporate assets, prohibiting alienation or use of assets, including property and bank accounts, by the taxpayer;
- harmonise the legislation among tax types so that not paying taxes is a criminal offense regardless of the type of tax and that there is an administrative appeals process for all of these taxes before going to the courts;
- increase staff mobility between different tax administration entities in order to ensure appropriate staffing of entities with high revenue collection capacities;
- where not in place, establish clear performance objectives, including on revenue collection results, for each revenue administration entity, and improved transparency regarding the performance of revenue administration entities, e.g. via publication of the tax gap for main revenue categories (the difference between the tax owed and the amount actually collected);
- optimise use of IT systems in the tax administration based on: (i) facilitating information exchange between tax administration entities; (ii) enhancing the use of e-

filling of tax returns and e-payment (e.g. by allowing payment through bank transfers); (iii) improving the exchange of information, including data on natural and legal persons, between relevant authorities for tax collection purposes, taking into account legal provisions for data protection; (iv) enhancing reporting capabilities in relation to obligations under Council Directive 2003/48;

- enhance the efforts to reduce administrative burden on businesses, with a view to reducing informal activities and achieving voluntary compliance to the widest possible extent. In this respect, systematically measure the time and cost for taxpayers to complete revenue administration procedures such as registration or filing;
- step up administrative tax fraud investigations and enhance cooperation between the tax and judicial systems, while addressing potential bottlenecks in the tax appeal system;
- improve capacity of the Inland Revenue Department to follow-up on tax information received from other countries, e.g. by permitting the department to access databases of other public entities in order to facilitate and expedite the identification of the taxpayer; and
- remove from the income tax law the Director's prerogative to act as deemed necessary in relation to the application of the Law's provisions, including the decision on the withdrawal of lawsuit for unpaid taxes.

3.8. The Cypriot authorities will implement reforms, which build on the main recommendations derived from the diagnostic technical assistance mission conducted in February 2013. To this end, the authorities will elaborate a comprehensive reform agenda and consult with the programme partners on this agenda **by Q2-2013**.

3.9. The Cypriot authorities will safeguard the timely and effective exchange of information in regard to tax matters, fully ensuring the applicability of laws and standards governing international exchange of tax information. In this respect, the Cypriot authorities will enhance the practice of timely delivery of relevant and accessible tax information to other EU Member States. The authorities will:

- fully transpose and implement Council Directive 2011/16/EU on administrative cooperation in the field of taxation⁵ and abide by Art 7 of the Directive and Art 10, 19 and 21 of Council Regulation 904/2010 on administrative cooperation and combating fraud in the field of value-added tax, which prescribe specific timeframes within which Member States shall provide information to each other;
- ensure timely access to information on beneficial ownership of trusts and to an audit trail of financial transactions of trustees. To this end, the programme partners take note of the Cypriot authorities' intention to establish registers of trusts held by the respective competent supervisory authority and of the recently-introduced obligation to have, at any given time, for trusts under Cyprus law at least one trustee who is a resident in Cyprus. Professional trustees should be authorised or otherwise regulated (i.e. as lawyers, accountants or Trust and Company Service Providers) and all trustees, whether regulated or not, should be registered (see paragraph 1.17). Trustees should report information to their respective supervisors on their relation to a trust. In

⁵ The Cypriot authorities have submitted Law N. 205(I)/2012 (enacted on 28 December 2012), transposing the Directive, to the European Commission.

addition, the Cypriot authorities will require trustees of trusts under Cyprus law to declare their status to credit institutions⁶ when using the financial system in Cyprus, and require credit institutions established in Cyprus to obtain a corresponding declaration of status from trustees of trusts created under and governed by foreign law as a mandatory condition for using the financial system in Cyprus **by Q3-2013**;

- ensure that they have timely access to information on who truly and effectively controls a company established in Cyprus. To this end, they will either a) require nominee directors⁷ and nominee shareholders to disclose the identity of their nominator to the company and to the company register; or b) require that all nominee directors and nominee shareholders be authorised or otherwise regulated (i.e. as lawyers, accountants or TCSPs) and maintain information on the identity of their nominator, which is to be made available to the competent authorities upon request. A record of director's or shareholder's nominee status will be accessible through the registers under the TCSP Law, which list all regulated persons (i.e. lawyers, accountant and TCSPs). In the case of the trustee service being provided by a TCSP, the information that the TCSP is a professional service provider will be accessible through the registers under the TCSP Law **by Q3-2013**;
- ensure the systematic follow-up and use of information received from other countries about savings income payments received by Cyprus resident individuals and savings income payments received by entities and legal arrangements such as trusts under Cyprus law, notably entities and legal arrangements the beneficial owners of which are resident in other EU Member States; and
- implement the recommendations put forward in the in-depth review of Cyprus' legal and regulatory framework under the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes and commit to address any shortcomings to be identified in the forthcoming evaluation of implementation issues.

In the context of an effective implementation of Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (the EUSD), the Cypriot authorities will continue to provide to the EC all necessary and available information/statistics extracted from the data exchanged under the FISC153. In addition, on an annual basis and starting from the tax year ending on 31 December 2013, the Cypriot authorities will provide to the EC a breakdown of the information provided under the EUSD by sector of activity of the paying agents, including possible sanctions actually claimed of paying agents for their application of the EUSD. **In 2015**, the Cypriot authorities will provide to the European Commission a report on the results of audits conducted in 2014. The Cypriot authorities (CBC) will provide on an annual basis detailed sectoral deposit statistics with a breakdown of non-resident deposits by country.

Immovable Property Tax Reform

The following measures will be taken to increase revenue and to improve the fairness of the tax burden by levying the recurrent property tax on current market values. An additional objective is to reduce overhead cost in tax base administration.

⁶ As defined in Art. 2.1(1) of the Third Anti-Money Laundering Directive, 2005/60/EC

⁷ Under Cyprus law, there is no legal concept of 'nominee director', but it is used with reference to professionals who provide director services.

3.10. In view of this, the Cypriot authorities have agreed to implement the following measures:

- implement a property price index that establishes the average property market valuation in 2013 by square meter of habitable surface and land plot. This index shall be operational to provide imputed market valuations for each non-agricultural cadastral plot **by Q2-2014**, in time for its application in the calculation of the immovable property tax in 2014. The index shall vary according to location and zoning as well as other building- and plot-related characteristics. Moreover, propose and implement a methodology for annual updates of such imputed market valuations;
- implement the recurrent immovable property tax based on imputed market valuations of land plots according to a unit tax base established by this property index **by Q3-2014**. The tax rates shall reflect the progressivity and revenue of the preceding property tax. For co-owned land plots, individual owners shall be taxed according to ownership proportions as provided in the cadastre;
- establish the legal basis for a mandatory annual adjustment of the property unit tax base by a competent executive authority **by Q3-2014**; and
- in order to retain a stimulus to property demand and reduce distortions in property prices, provide for an extension of the reduction in property transaction fees until 2016 **by Q2-2013**.

In addition, the following studies should be initiated **by mid-2013**, and their recommendations implemented at the latest **from 1 January 2015 onwards**:

- a study on refining the parameters of the imputed property market value index within the bounds of administrative and legal simplicity. In particular, the study shall assess the feasibility of a unit tax base for individual dwellings. Moreover, the study shall report on a mechanism to dampen cyclical variations in the index; and
- a further study on the scope of consolidating the collection and administration of the municipal recurrent property tax and sewage tax. The study will also review existing exemptions and derogations from property taxation. It will also report on the scope of shifting revenue from transaction fees and taxes to recurrent taxation **by early 2015**.

Public administration reform

3.11. The public sector represents a large share of public expenditures in Cyprus. To ensure an efficient use of government resources, while delivering a quality service to the population; the Cypriot authorities will undertake the following reform measures:

- reduce impediments to staff mobility within the public and broader public sector, inter alia, by removing restrictions arising from the Public/Broader Public Service Laws as to the duration and placement of secondments, as well as the need for employee consent **by Q2-2013**; and
- in a first step, as of 1.9.2013, establish working time in the Public Service, in conjunction with moving the starting time by half an hour (from 7:30 to 8:00) and extending the flexibility period from a half to one hour. With this modification, the weekly working hours of public officers remain unchanged, but are distributed throughout the year as follows: 37 ½ hours per week, 7 ½ hours per day, daily (Monday to Friday): 8.00/9.00 to 15.30/16.30. The same applies for the transitional period of 1.1.2013-31.8.2013 but the starting time remains the same (7:30) and thus the ending time is moved back by half an hour (15:00/16:00). Following part 1 of the

below review, in a second step, further reduce overtime and related costs to the public sector wage bill by making working time more flexible so as to cover - as a minimum - service hours from 7:00 until 17:00 in the entire public sector and service hours from 7:00 to 19:00 for public sector services with extended operating hours (including, but not limited to, healthcare and security), under regular working time. Working hours outside regular working time shall be limited by enforcing strict controls, including requiring pre-approval of any non-emergency work outside regular working time (see 3.2) **by Q1-2014**.

In addition, the Cypriot authorities will commission an independent external review of possible further reforms of the public administration based on the terms of reference already agreed with the programme partners.

The review will comprise two parts, covering the following areas:

Part 1:

- examination of the role, the competences, the organisational structure and the size/staffing of relevant ministries, services and independent authorities;
- examination of the possibility of abolishing or merging/consolidating Non-profit Organisations/Companies and publicly owned enterprises; and
- re-organisation/re-structuring of local government.

Part 2:

- appropriate system of remuneration and working conditions/conditions of employment in the public sector (e.g. annual vacation leave, sick leave, maternity leave, working time), in relation to the private sector and to other EU countries and based on best practices; and
- introduction of a new performance based appraisal system in the public sector, for development and promotion purposes, linking performance with the remuneration system/ increments.

The first part of the review will be published **by Q1-2014**. The second part of the review will be published **by Q3-2014**. Based on the findings of the review, the Cypriot authorities will agree upon a reform after consultation with the programme partners, submit it to the House of Representatives for approval and implement a reform of the public administration (part 1 **by Q2-2014** and part 2 **by Q4-2014**).

Welfare system

3.12. The welfare system in Cyprus encompasses a broad range of individual benefits provided by different Ministries and Departments. To ensure efficient use of public funds within the welfare system, while at the same time ensuring an appropriate balance between welfare benefits and incentives to take up work (as further specified in section 4.3 below), the Cypriot authorities will carry out a reform of the welfare system to be implemented and applied as of 1 January 2014 after review by and consultation with the programme partners (draft reform plan to be submitted **by Q2-2013**). The reform will cover the following elements:

- streamlining the number of benefits available through merging and phasing out;

- better targeting of various social transfers, so as to reduce the total number of beneficiaries while protecting the most vulnerable by:
 - the introduction of a common definition of income sources, financial assets and movable and immovable property to be taken into account for means-testing, so as to ensure consistency across different benefit schemes;
 - the introduction or tightening of means-testing criteria, on the basis of the above definition, for benefit provision and continued access to benefits by lowering income thresholds, accounting for wealth such as financial assets, movable and immovable property, and broadening the sources of income to be taken into consideration. With respect to the latter, as a general principle benefits provided should be fully accounted for in the computation of personal income;
- a review of the appropriate levels of individual benefits and the index for adjustment of benefit levels; and
- transferring of all the relevant competences and responsibilities related to the administration and provision of all social benefits to the Ministry of Labour and Social Security, which should be appropriately equipped in terms of financial and human resources, reassigned from other departments of the public administration by **Q1-2014** (see 3.11).

The reforms must be consistent with the fiscal targets defined in this MoU.

4. Labour market

Key objectives

While the Cypriot labour market was characterised by high employment rates and low unemployment in the years leading up to the crisis, the unwinding of unsustainable imbalances and worsening of macroeconomic conditions and prospects have resulted in rapidly rising unemployment and important labour market challenges over the medium-term. Labour market reforms can mitigate the impact of the crisis on employment, limit the occurrence of long-term and youth unemployment, facilitate occupational mobility and contribute to improving the future resilience of the Cypriot economy in the face of adverse economic shocks. In this context, the objectives are: (1) to implement a reform of the system of wage indexation commensurate with ensuring a sustainable improvement in the competitiveness of the economy and allowing wage formation to better reflect productivity developments; (2) to prepare and implement a comprehensive reform of public assistance in order to achieve an appropriate balance between public assistance and incentives to take up work, target income support to the most vulnerable, strengthen activation policies and contain the public finance impact of rising unemployment; and (3) to help attenuate adverse competitiveness and employment effects by linking any change in the minimum wage to economic conditions.

Cost of living adjustment (COLA) of wages and salaries

4.1. To ensure that wage growth better reflects developments in labour productivity and competitiveness, in both expansions and recessions, the Cypriot authorities will reform the wage-setting framework for the public and private sector in such a way as to improve real

wage adjustment. To this end, the effective application of the reform of the wage indexation system (COLA) applicable to the broader public sector, as determined in the budget of 2013 and embedded in the Medium-Term Budget, must be ensured. This reform acts on relevant elements of the indexation system, as follows:

- a lower frequency of adjustment, with the base period for calculating the indexation (COLA) being lengthened from the current period of six months to twelve months. Indexation would take place on 1st January each year;
- a mechanism for automatic suspension of application and derogation procedures during adverse economic conditions, such that if in the second and third quarters of a given year negative rates of growth of seasonally adjusted real GDP are registered, no indexation would be effected for the following year; and
- a move from full to partial indexation, with the rate of wage indexation being set at 50% of the rate of increase of the underlying price index over the previous year.

As foreseen in section I.2 of this agreement, the suspension of wage indexation in the wider public sector will remain in place until the end of the programme.

A tripartite agreement will be pursued with social partners for the application of the reformed system in the private sector **by end-2013**. Furthermore, based on the current economic outlook, wage and salary indexation is foreseen not to be applied in the private sector until 2014.

Minimum wage

4.2. With a view to preventing possible adverse competitiveness and employment effects, the Cypriot authorities commit that, over the programme period, any change in the minimum wage covering specific professions and categories of workers should be in line with economic and labour market developments and will take place only after consultation with the programme partners.

Public assistance and activation of the unemployed

4.3. The increase in unemployment underlines the need for an overall assessment of activation policies and available instruments for income support after the expiration of unemployment insurance benefits. The planned reform of public assistance should ensure that social assistance serves as a safety net to ensure a minimum income for those unable to support a basic standard of living, while safeguarding incentives to take up work, ensuring consistency with the reform of the welfare system as described in section 3.12. Therefore, the Cypriot authorities will:

- ensure that the planned reform of public assistance includes measures aimed at activating benefit recipients by facilitating their reinsertion in the labour market, reducing disincentives to work and imposing job-search requirements for continued benefit receipt. To this end, the draft reform plan on public assistance will be submitted to the programme partners **by Q2-2013** for review and consultation;
- provide an assessment of current activation policies **by Q2-2013**; and
- review and enhance the cooperation between the public employment service and the benefit-paying institutions in the activation of the unemployed.

5. Goods and services markets

Key objectives

Addressing issues of a structural nature is critical for rebalancing the Cypriot economy, restoring its growth potential and improving competitiveness. Removing unjustified obstacles in services markets can have a significant impact on growth, in particular for the services-intensive Cypriot economy. In addition, improving the quality and reducing the cost of regulated professional services can play an important role for the business environment and for Cyprus' competitive position. Since tourism is one of Cyprus' largest sectors and an important potential driver of future growth, a reinvigoration of the competitiveness of this sector is warranted. Improving the regulation of administration related to the real estate sector will contribute to the overall functioning of the housing market and help to foster foreign demand at a time when the prospects of this sector are affected by downside risks. Finally, the exploitation of the domestic offshore natural gas potential offers the medium- to long term prospect for reducing Cyprus' energy import dependency and the security and sustainability of energy supply. This would help to address Cyprus' sustained current account deficit and high public debt. However, these positive effects will accrue only after overcoming the challenges of financing and planning the infrastructure investments, designing effective energy markets and an adequate regulatory regime.

Services Directive: Sector-specific legislation

5.1. The Cypriot authorities will adopt the remaining necessary amendments to the sector-specific legislation in order to fully implement the Services Directive, easing the requirements related to entry and establishment. In addition, requirements concerning minimum tariffs should be eliminated unless they are justified according to article 15(3) of the Services Directive. Amendments will be presented to the House of Representatives **by Q2-2013** and minimum tariff requirements without justification will be abolished **by Q2-2013**.

Reform of regulated professions

5.2. The Cypriot authorities will:

- eliminate any existing total bans on the use of a form of commercial communication (advertising) in regulated professions, as required by the Services Directive **by Q2-2013**; and
- further improve the functioning of the regulated professions sector (such as lawyers, engineers, architects) by carrying out a comprehensive review of requirements affecting the exercise of activity **by Q3-2013** and eliminating those that are not justified or proportional **by Q1-2014**; and
- requirements affecting the access to the activity shall be assessed in order to repeal those which are not justified or proportionate after the adoption of the Directive amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System, and in accordance with the evaluation, methodology and timeframe to be defined in the said amending Directive.

Competition and sectoral regulatory authorities

5.3. The Cypriot authorities will:

- ensure the independence and enhance the effective functioning of the Commission for the Protection of Competition and its ability to enforce effectively the competition rules **by Q4-2013**; and
- ensure the necessary independence and power of the national regulatory authorities (NRA) and enhance their ability to exercise their responsibilities and to carry out effectively their tasks, including monitoring the competitive situation in their respective sector **by Q4-2013**.

Housing market and immovable property regulation

5.4. The Cypriot authorities will take the following measures to ensure market clearing of the property market, allow for efficient seizure of property collateral, and for market-based assessment of property prices, as well as alleviating the factors deterring both domestic and foreign demand. A particular risk arises from legal disputes, which may be due to incomplete documentation of ownership and property rights and the slow pace of judicial procedures.

The Cypriot authorities will:

- provide for mandatory registration of sales contracts for immovable property **by Q2-2013**. **By Q4-2014**, eliminate the title deed issuance backlog to less than 2,000 cases of immovable property sales contracts with title deed issuance pending for more than one year. The Cypriot authorities will enhance cooperation with the financial sector to ensure the swift clearing of encumbrances on title deeds to be transferred to purchasers of immovable property, and implement guaranteed timeframes for the issuance of building certificates and title deeds;
- publish quarterly progress reviews of the issuance of building and planning permits, certificates, and title deeds, as well as title deed transfers and related mortgage operations throughout the duration of the programme;
- implement electronic access to the registries of title deeds, mortgages, sales contracts and cadastre for the financial sector and government services **by Q4-2014**. Personal data privacy legislation shall be reviewed and amended to alleviate legal impediments to such electronic access, in particular concerning the procedures for proof of legal interest **by Q2-2013**;
- introduce legislation on amending the procedure on the forced sale of mortgaged property to allow for private auctions as under the rules for immovable property recovery under bankruptcy regulations. The Cypriot authorities shall enact regulations to provide for the conclusion of such private auctions within shortest feasible timespans (see 1.5) **by end-2013**; and
- better target the rules of court to improve the pace of court case handling. The Cypriot authorities shall assess the need for additional measures – including if necessary legislative reforms - to eliminate court backlogs by end of the programme. Moreover the authorities shall provide for specialized judges akin to the rules for criminal case handling in order to expedite the handling of cases under commercial and immovable property laws **by Q4-2013**.

Tourism

5.5. Tourism is an important export sector and is of great importance to domestic value added and employment. Since 2011, tourism has experienced a significant increase in tourism arrivals and incomes, while the prospects for the continuation of that upward trend in 2013 are excellent. In particular, in 2011, there was an increase of 10.1% in tourism arrivals and 12.9% in revenue growth compared to 2010, while in 2012 (latest data August) there was a further increase of 5% and 8.5% respectively compared to 2011. To strengthen the competitiveness of the tourism sector, the Cypriot authorities will:

- carry out a study on how to improve the tourism sector business model, in particular, with a view to lengthening the tourist season, increasing occupancy rates of hotels and promoting resident tourism during winter time, developing a multi-dimensional and high quality tourism, *inter alia*, by defining thematic niches such as sport, cultural and

medical tourism, developing individual tourism, promoting professionalism of tourist service providers and ensuring the dissemination of best-practices on upgrading the quality of the services provided, improving the role of tourism-related infrastructure investment. The Tourism Strategy for 2011-2015 will be reviewed and, if necessary, revised based on the study's findings **by Q2-2013**;

- facilitate condo hotel projects with the aim of enhancing access to financing investment in hotel development, including the removal of any legal impediments **by Q2-2013**; and
- in order to enhance attractiveness of the country as a destination, engage in a thorough analysis of the best means of achieving sufficient air connectivity for Cyprus, including by negotiating new or amending existing air services agreements.

Energy

5.6. The Cypriot authorities will:

- ensure, without delay, that the Third Energy Package has been completely transposed and fully implemented and notify the European Commission that the necessary legislation has been transposed; indicate the date of delivery of the first commercial supply of natural gas under a long-term supply contract, thereby ending Cyprus' derogation of an isolated energy network and initiating the application of the emergent market derogation; and indicate the intended duration of the latter derogation;
- formulate a comprehensive strategy for the rearrangement of the Cypriot energy sector. This strategy, to be developed under the full authority of the Cypriot Government, should include at least the following three key elements, which should be presented to the programme partners for consultation according to the timeline specified below:
 1. a *roll-out plan* for the infrastructure required for the exploitation of natural gas, taking into account possible commercial uncertainties and risks. The plan should cover: the required investments, associated costs, financing sources and methods, related major planning risks and bottlenecks; and a projection of the revenue streams over time; first version **by Q3-2013**;
 2. *an outline of the regulatory regime (CERA) and market organisation* for the energy sector and gas exports, which would be conducive to the introduction and proper functioning of open, transparent, competitive energy markets, taking into account the size of the Cypriot economy, the integration of Cyprus' energy system into regional markets, the principle of independent regulatory oversight, and the EU targets for energy efficiency, renewable energy and carbon emissions. Specifically, the outline should include the following elements: the potential for setting-up wholesale markets for gas and electricity, of which the latter should be open to non-producing traders; the freedom for customers to make an effective choice of supplier; full unbundling of gas suppliers and customers, in particular electricity companies; and an appropriate sales framework for the off-shore gas supply (for both exports and domestic markets), aimed at maximising revenues **by Q2 2013**; and
 3. a plan to establish the institutional framework for the management of hydrocarbon resources, including a *resource fund*, which should receive and manage the public revenues from offshore gas exploitation. The preparatory phase should include the

required legal steps and their adoption. In order to ensure transparency, accountability and effectiveness, the resource fund should benefit from a solid legal base and governance structure, drawing on internationally-recognized best practices. In particular, clear rules governing inflows and outflows should be established as part of Cyprus' budgetary framework, giving due respect to the need to develop the hydrocarbon industry, including the necessary infrastructure, the importance of bringing Cyprus' public debt on a steady downward path and the need to invest and generate value for all strata of society, including future generations **by Q3-2013**.

Since these three key elements are strongly interdependent, they need to be developed in parallel over time. In addition, the plan should take account of the current uncertainty over the actual size of domestic, offshore, commercially-viable, natural gas fields and possible changes in international gas prices and demand, and appropriate data should be firmly based on *alternative world energy scenarios* from an internationally-reputed organisation. The plan will be based on an appropriate level of technical assistance on technical aspects in this context.

Annex I
Budgetary measures adopted by Cyprus in or after December 2012

Fiscal measures with effect in 2012

Expenditure measures

I.1 Implement a scaled reduction in emoluments of public and broader public sector pensioners and employees as follows: EUR 0-1000: 0%; EUR 1001-1500: 6.5%; EUR 1501-2000: 8.5%; EUR 2001-3000: 9.5%; EUR 3001-4000: 11.5%; above EUR 4001: 12.5%.

I.2 Extend the suspension of the practice of COLA for the public and broader public sector until the end of the programme (Q1-2016) (see section 4.1).

I.3 Extend the freeze of increments and general wage increases in the public and broader public sector and temporary contribution in the public, broader public and private sectors on gross earnings and pensions by three additional years until 31 December 2016.

I.4 Reduce the number of public sector employees by at least four thousand five hundred over the period of 2012-16 by: i) freezing the hiring of new personnel on first entry posts in the broader public sector for three additional years until 31 December 2016; ii) implementing a policy of recruiting one person for every four retirees (horizontal); iii) introducing measures to increase the mobility of civil servants within and across line ministries (see 3.11); and iv) implementing a four-year plan aimed at the abolition of at least 1880 permanent posts (see I.16).

I.5 Freeze the hiring of new hourly paid employees and enforce immediate application of mobility within and across ministries and other government entities. In the case of health and security posts, recruitment of one person for every five retirees will be possible to meet urgent needs.

Revenue measures

I.6 Appropriate a one-off additional dividend income collected from semi-governmental organisations.

I.7 Increase the bank levy on deposits raised by banks and credit institutions in Cyprus from 0.095% to 0.11% with 25/60 of the revenue earmarked for a special account for a Financial Stability Fund.

I.8 Introduce a mechanism for a regular review of excise taxes to secure the real value of excise tax revenue. Such a mechanism should be non-recurring and should, by no means lead to an automatic indexation mechanism of excise taxes to price developments.

Fiscal measures with effect in 2013

Expenditure measures

I.9 Ensure a reduction in total outlays for social transfers by at least EUR 113 million through: (a) the abolition of a number of redundant and overlapping schemes such as the mothers allowance, other family allowances and educational allowances; and (b) the abolition

of supplementary allowances under public assistance, the abolition of the special grant and the streamlining of the Easter allowance for pensioners.

I.10 Ensure a reduction of at least EUR 29 million in the total outlays of allowances for employees in the public and broader public sector by:

- i. taxing pensionable allowances provided to senior government officials and employees (secretarial services, representation, and hospitality allowances) in the public and broader public sector;
- ii. reducing the allowances provided to broader public sector employees and reducing all other allowances of broader public sector employees, government officials and hourly paid employees by 15%; and
- iii. reducing the daily overseas subsistence allowance for business trips by 15%. Ensure a further reduction the subsistence allowance of the current allowance when lunch/dinner is offered by 50% (20% - 45% of overseas subsistence allowance instead of 40% - 90% currently paid).

I.11 Reduce certain benefits and privileges for state officials and senior government officials, in particular by:

- i. suspending the right to travel first/business class by state officials, senior government officials and employees with the exception of transatlantic travel. The right to business class travel shall be maintained for the President of the Republic of Cyprus and the President of the House of Representatives;
- ii) abolishing the right to duty free vehicles for employed and retired senior public sector officials; and
- iii) extending the wage freeze and temporary contribution on gross earnings to cover all state officials and permanent secretaries (129 individuals) for 2013-2016, including members of the House of Representatives. Include pensionable and tax-free allowances of these individuals in the calculation of their taxable income. Introduce a contribution of 6.8% on the pensionable earnings of these individuals.

I.12 Implement the following measures regarding the Government Pension Scheme (GEPS):

- i. freeze public sector pensions;
- ii. increase the statutory retirement age by 2 years for the various categories of employees; increase the minimum age for entitlement to an unreduced pension (by 6 months per year) to be in line with the statutory retirement age; while preserving acquired rights, introduce an early retirement penalty of 0.5% per month of early retirement so as to make early retirement actuarially neutral;
- iii. reduce preferential treatment of specific groups of employees, like members of the army and police force, in the occupational pension plans, in particular concerning the contribution to the lump-sum benefits;
- iv. introduce a permanent contribution of 3% on pensionable earnings to Widows and Orphans Fund by state officials who are entitled to a pension and gratuity. Introduce a contribution of 6.8% on pensionable earnings by officials, who are entitled to a pension and gratuity but are not covered by the government's pension scheme or any other similar plan;

- v. amend Article 37 of the Pensions Law to abolish the provision according to which, in the case of death of an employee, if the deceased had a wife/husband at the time of his/her retirement and thereafter he/she remarried, his/her last wife/husband is considered a widow/widower. With the abolition of this provision, the second wife/husband will not be considered a widow/widower and thus she/he will not be entitled to pension;
- vi. increase the contribution rate on the pensionable earnings of the members of the Tax Tribunal Council and the Tender Review Authority from 3.4% to 6.8%; and
- vii. the contributions to the Widows and Orphans Fund will no longer be reimbursable.

- I.13 Implement further reform steps under the General Social Insurance Scheme by:
- i. actuarially reducing pension entitlements from the General Social Insurance Scheme by 0.5% per month for retirements earlier than the statutory retirement age at the latest from January 2013, in line with the planned increase in the minimum age for entitlement to an unreduced pension to reach 65 (by 6 months per year), between 2013 and 2016;
 - ii. freezing pensions under the Social Security Fund for the period 2013-2016;
 - iii. abolishing the increase of pensions for a working dependent spouse under the General Social Insurance Scheme at the latest from January 2013 onwards.
- I.14 Reduce transfers by EUR 25 million from central government to state-owned enterprises and semi-public institutions.
- I.15 Ensure a targeted reduction of budgetary appropriations for a series of semi-governmental organisations in the 2013 Budget Law, supported by well-defined activity-reducing measures.
- I.16 Implement a four-year plan as prepared by the Public Administration and Personnel Department aimed at the abolition of at least 1880 permanent posts over the period 2013-2016.

Revenue measures

- I.17 Increase excise duties on tobacco products, in particular on fine-cut smoking tobacco, from EUR 60/kg to EUR 150/kg. Increase excise duties on cigarettes by EUR 0.20/per packet of 20 cigarettes.
- I.18 Increase excise duties on beer by 25% from EUR 4.78 per hl to EUR 6.00 per hl per degree of pure alcohol of final product. Increase excise duties on ethyl alcohol from EUR 598.01 to EUR 956.82 per hl of pure alcohol.
- I.19 Increase excise duties on energy, i.e., on oil products, by increasing tax rate on motor fuels (petrol and gasoil) by EUR 0.07.
- I.20 Increase the standard VAT rate from 17% to 18%.
- I.21 Introduce a tax of 20% on gains distributed to winners of betting by the Greek Organisation of Football Prognostics S.A. (OPAP) and the National Lottery for winnings of EUR 5,000 or more.

I.22 Abolish all exceptions currently in place for paying the annual company levy of EUR 350.

Fiscal measures with effect in 2014

Expenditure measures

I.23 Ensure a reduction in total outlays for social transfers by a at least EUR 28.5 million to be achieved through streamlining and better targeting of child benefits and educational grants, and abolition of social cohesion benefits provided by the welfare services.

I.24 Implement a further reduction in emoluments of public and broader public sector employees and pensioners by a flat rate reduction of 3% on all wages.

I.25 Introduce a fee on monthly transportation cards for the use of public transportation services by students and pensioners.

Revenue measures

I.26 Extend the application of the temporary contribution on gross earnings and pensions of public and private sector employees up to 31 December 2016 as follows: EUR 0 – 1,500: 0%; EUR 1,501 – 2,500: 2.5%; EUR 2,501 – 3,500: 3.0%; and > EUR 3,501 - : 3.5%.

I.27 Increase the standard VAT rate from 18% in 2013 to 19% in 2014.

I.28 Increase the reduced VAT rate from 8% to 9%.

I.29 Increase excise duties on energy, i.e., on oil products, by increasing the tax rate on motor fuels (petrol and gasoil) by EUR 0.05.

I.30 Increase the contributions, as of 1.1.2014, of salaried employees and employers to the GSIS by an additional 1 percentage point on pensionable earnings, i.e. 0.5 of a percentage point from employees and 0.5 of a percentage point from employers and 1 percentage point in the case of self-employed persons.

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GENERAL TERMS

1. INTRODUCTORY PROVISIONS

These General Terms set out the terms and conditions generally applicable to all Financial Assistance Facility Agreements and, subject to Clauses 1.1 to 1.3 of these General Terms, shall form an integral part of the Agreement.

- 1.1 These General Terms may be varied, supplemented or replaced by specific terms and conditions which are set out in the relevant Financial Assistance Facility Agreement and Facility Specific Terms.
- 1.2 In case of any inconsistency or conflict:
 - (a) the terms and conditions set out in a Financial Assistance Facility Agreement shall prevail over the terms and conditions set out in these General Terms and any applicable Facility Specific Terms; and
 - (b) the terms and conditions set out in any applicable Facility Specific Terms shall prevail over the terms and conditions set out in these General Terms.
- 1.3 If the Board of Directors of ESM adopts new General Terms or adopts any amendments to these terms, these shall not be incorporated automatically into existing Financial Assistance Facility Agreements. If ESM and each of the Parties to the Financial Assistance Facility Agreement intend to incorporate into an existing Financial Assistance Facility Agreement the new or amended General Terms, this shall be effected by an amendment in writing to the relevant Financial Assistance Facility Agreement entered into pursuant to Clause 4 of the Financial Assistance Facility Agreement (following the receipt of all approvals required under the ESM Treaty to authorise such amendment).

2. DEFINITIONS AND INTERPRETATION

- 2.1 Capitalised terms shall, unless otherwise specified in the Financial Assistance Facility Agreement or in relation to a Facility in the relevant Facility Specific Terms, have the meanings set out below:

"Acceptance Notice" means, in relation to a Facility, ESM's written notice to the Beneficiary Member State substantially in the form of Schedule 4 setting out the amount and the provisional financial terms of the Financial Assistance under the relevant Tranche or Disbursement that ESM is willing to extend to the Beneficiary Member State under the Agreement.

"Aggregate ECCL Facility Amount", where applicable, has the meaning given to such term in the Financial Assistance Facility Agreement.

"Aggregate Financial Assistance Amount" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Aggregate Financial Institution Recapitalisation Facility Amount", where applicable, has the meaning given to such term in the Financial Assistance Facility Agreement.

"Aggregate Loan Facility Amount", where applicable, has the meaning given to such term in the Financial Assistance Facility Agreement.

"Aggregate PCCL Facility Amount", where applicable, has the meaning given to such term in the Financial Assistance Facility Agreement.

"Agreement" means the relevant Financial Assistance Facility Agreement, these General Terms (as varied, supplemented or replaced by the terms of the Financial Assistance Facility Agreement and/or the applicable Facility Specific Terms), the applicable Facility Specific Terms (as varied, supplemented or replaced by the terms of the Financial Assistance Facility Agreement), each Request for Funds, Acceptance Notice and Confirmation Notice issued under that Financial Assistance Facility Agreement, all preambles and schedules to each of the foregoing including any Pre-Funding Agreement, and any other document which is designated as forming part of the Agreement.

"AMC" means an asset management company, transitional credit institution, transitional financial institution or other transitional entity which is created for the purpose of acquiring assets from a viable or non-viable financial institution under a national regulatory framework for financial institutions in distress or experiencing financial difficulties.

"Applicable Facilities" means the Facilities designated as such in the relevant Financial Assistance Facility Agreement.

"Availability Period" means, in relation to a Facility, the period specified in relation to that Facility in the Financial Assistance Facility Agreement.

"Availability Period Termination Date" has, where applicable, in relation to a Facility, the

meaning given to such term in the Financial Assistance Facility Agreement.

"Average Maturity" means, in relation to any Facility, the weighted average maturity of all the Disbursements made available under such Facility where the maturity of each Disbursement is determined by reference to its final scheduled repayment date (for Disbursements where the principal is repaid in full in one single payment at its maturity) or the scheduled amortisations of Financial Assistance (or Disbursements thereof) (for any Disbursements the principal of which is repayable in scheduled instalments).

"Back-to-Back Financed Financial Assistance" means any Tranche or Disbursement of Financial Assistance which is financed by a dedicated issue or issues of Funding Instruments (including any Tranche or Disbursement which has been disbursed by ESM in the form of delivery *in specie* of ESM Debt Securities).

"Bank Capital Instruments" means the common shares, contingent convertibles or such other instruments which qualify as bank regulatory capital or comparable instruments issued by AMC's, in each case as ESM may in its absolute discretion approve and, in each case, issued and subscribed or otherwise acquired by the Fund from certain financial institutions or AMCs in the Beneficiary Member State in consideration for payments made out of the proceeds of Financial Assistance provided under the Agreement.

"Beneficiary Member State" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Board of Directors" means the board of directors of ESM established pursuant to the ESM Treaty.

"Board of Governors" means the board of governors of ESM established pursuant to the ESM Treaty.

"Bond Interest Amount" means, in respect of a Bond Interest Payment Date, the aggregate interest amount for such Bond Interest Payment Date received by ESM in respect of Purchased Bonds held by ESM or, in the case of a sale of Purchased Bonds, the portion of the net sale proceeds which corresponds to accrued interest on the Purchased Bonds.

"Bond Interest Payment Date" means, in relation to Purchased Bonds, each date on which payment of interest under such Purchased Bonds is or is scheduled to be

received by ESM acting as bondholder and each date on which ESM receives sale proceeds of Purchased Bonds which include an amount corresponding to accrued interest on the Purchased Bonds.

"Bond Interest Period" means each interest period by reference to which interest is calculated in relation to a series of Purchased Bonds (including in the case of sale of Purchased Bonds the period from the last interest payment date to the date of sale).

"Business Day" means a day on which the TARGET2 payment system is open for business.

"Calculation Date" in relation to each PMP Operation or SMP Operation shall be the date or dates specified in the relevant Confirmation Notice.

"Central Bank" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Chairperson" means the chairperson of the Board of Governors appointed pursuant to the ESM Treaty.

"Commission" means the European Commission.

"Commitment Fee" means the fee allocated to the relevant Beneficiary Member State in accordance with the ESM Pricing Policy and related to:

- (i) the Negative Carry resulting from the issuance or roll-over of Funding Instruments by ESM (including to fund the Liquidity Buffer);
- (ii) Issuance Costs related to funding raised by ESM that are not otherwise recoverable from the Beneficiary Member State or any other beneficiary member state under any other financial assistance facility agreement;
- (iii) any commitment commissions arising under DMO Lines or committed or un-committed credit lines as may be made available to ESM, and
- (iv) any other liquidity costs of ESM (such as utilisation fees, agency fees, account bank fees or other costs incurred in relation to the items referred to in paragraphs (i) to (iii) above) that are not otherwise attributable to the Beneficiary Member State or any other beneficiary member state under any other financial assistance facility agreement,

in each case according to the ESM Pricing Policy.

The Beneficiary Member State shall pay its allocation of the Commitment Fee either (a) within five (5) calendar days of receipt of an invoice, or (b) on the first Payment Date under any Tranche or Disbursement following the determination of the amount to be paid as annual Commitment Fee, expressed as a number of basis points per annum that shall be applied over the relevant Tranche or Disbursement to result in the amount of the Commitment Fee that would otherwise have been payable upon receipt of an invoice.

The method of the determination and the allocation of the Commitment Fee to a Beneficiary Member State may be changed from time to time by the Board of Governors.

"Conditions of the Purchased Bonds" means, in relation to Purchased Bonds acquired under a PMP Operation or a SMP Operation, the terms and conditions of such Series of Bonds.

"Confirmation Notice" means ESM's written notice to the Beneficiary Member State substantially in the form of Schedule 5 setting out the specified financial terms of the Financial Assistance under the relevant Tranche or Disbursement that ESM is willing to extend to the Beneficiary Member State under the Agreement.

"Cost of Carry" means, in relation to Funding Instruments, the difference between (i) the interest accrued under the relevant Funding Instruments: (a) in the case of a Pre-Funding Operation, during the period from the date ESM commences incurring liability for interest under the relevant Funding Instruments under the Pre-Funding Operation until the relevant Disbursement Date (or the date on which the proceeds of the relevant Funding Instruments are used to refinance any other Funding Instruments) or, if the proceeds of the Pre-Funding Operation are not partly or entirely disbursed, until the maturity of the relevant Funding Instruments for the undisbursed proceeds; (b) in the case of amounts raised to fund the Liquidity Buffer, during the period when ESM incurs liability for interest under the relevant Funding Instruments but is not able to recover any amount from the Beneficiary Member State or any other beneficiary member state in respect of such amount as part of the ESM Cost of Funding under any financial assistance facility agreement; (c) in the case of any re-financing of any financing, during the period from the date ESM commences incurring liability for interest under the new financing until the new

financing is disbursed (or the date on which the proceeds of the relevant Funding Instruments are used to refinance any other Funding Instruments) and (d) in the case of any Funding Instruments issued in order to permit ESM to comply with liquidity tests during the period when ESM incurs liability for interest under the relevant Funding Instruments but is not able to recover such amount from one or more beneficiary member states as part of the ESM Cost of Funding under any financial assistance facility agreement; and (ii) any return on the proceeds of those Funding Instruments actually received by ESM, if ESM invested the amount pre-funded, the residual amount under a financing or the amount raised to fund the Liquidity Buffer. The Cost of Carry shall be allocated to the relevant Beneficiary Member State in accordance with the ESM Borrowing Guidelines and the ESM Pricing Policy.

"Debt Agency" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Designated Euro Account" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Disbursement" means a disbursement of funds to, or at the direction of, the Beneficiary Member State under a Facility including, where permitted by the ESM Borrowing Guidelines and the relevant Facility Specific Terms, by way of the delivery of Funding Instruments issued by ESM or by way of the payment of the subscription price or purchase price of bonds or other debt securities issued by the Beneficiary Member State and acquired in the primary or secondary markets.

"Disbursement Date" means, in relation to any Financial Assistance made under any Facility by way of a Disbursement, the date on which funds or Funding Instruments issued by ESM in respect of the relevant Financial Assistance are paid, advanced or delivered to the Beneficiary Member State (or its nominee or to any third party as expressly contemplated by the Agreement) or are used to purchase debt securities issued by the Beneficiary Member State in the primary market or the secondary market in accordance with the relevant Facility Specific Terms, **provided that** in relation to any PMP Operation made under a PMP Facility or any SMP Operation made under an SMP Facility, Disbursement Date means the date on which a PMP Operation or SMP Operation is made by ESM, being the date on which ESM purchases the relevant Purchased Bonds in the primary

market or the secondary market. Each such Disbursement Date under a given Facility must be a date selected by ESM which is: (i) a Business Day; (ii) a day (other than a Saturday or Sunday) when banks are open for general business in Luxembourg and in the Beneficiary Member State; (iii) a day which falls during the Availability Period of the relevant Facility; and (iv) which otherwise complies with the relevant Facility Specific Terms.

"**Dispute**" means any dispute, controversy or claim arising out of or relating to the Agreement or the breach, termination, invalidity, interpretation or performance thereof.

"**Diversified Funding Strategy**" means ESM's funding strategy, which includes the use of the Liquidity Buffer, a pool of short term Funding Instruments and a pool of long term Funding Instruments and the methodology for allocation of Funding Instruments, funding and other costs and expenses between the Beneficiary Member State and each other beneficiary member state which shall be made in accordance with the ESM Borrowing Guidelines and the ESM Pricing Policy.

"**DMO Lines**" means treasury, money market or cash management operations between ESM and the debt management agencies of euro-area Member States.

"**ECB**" means the European Central Bank.

"**ECCL Facility**" means a facility to which the Enhanced Conditioned Credit Line: Facility Specific Terms set out in Section 3 of the Standard ESM Facility Specific Terms apply.

"**EFSF**" means the European Financial Stability Facility, a *société anonyme* incorporated in Luxembourg with its registered office at 43, avenue John F. Kennedy, L-1855 Luxembourg (R.C.S. Luxembourg B153.414).

"**EFSM**" means the European Financial Stabilisation Mechanism.

"**ESA**" means a European Supervisory Authority.

"**ESM Borrowing Guidelines**" means the document entitled "ESM Borrowing Guidelines" as the same may be varied, supplemented or replaced by the Board of Directors.

"**ESM Cost of Funding**" means, in relation to any Financial Assistance under a Facility, the

effective (after hedging) average cost of funding incurred by ESM in funding such Financial Assistance as determined by ESM either under the Diversified Funding Strategy in the case of Pool Funded Financial Assistance or by reference to specific series of Funding Instruments in the case of Back-to-Back Financed Financial Assistance where the Financial Assistance is funded by one or more dedicated issue(s) of Funding Instruments, expressed as a rate per annum and applied to the relevant Financial Assistance Amounts on a daily basis by ESM. The ESM Cost of Funding shall be calculated by ESM in accordance with the ESM Pricing Policy by adding:

- (a) ESM's (after hedging) average cost of funding the relevant Financial Assistance as determined by ESM in accordance with the ESM Pricing Policy, expressed as a rate per annum (and in the case of discount Funding Instruments (e.g. zero-coupon notes), cost of funding shall be calculated with reference to the nominal value of the relevant Funding Instrument); plus
- (b) the annual Service Fee; plus
- (c) the Commitment Fee; plus
- (d) if applicable, liquidity costs incurred in respect of Back-to-Back Financed Financial Assistance (in particular, in order to comply with applicable liquidity tests); plus
- (e) any other financing costs, margin, losses, hedging costs or other costs, fees or expenses incurred by ESM that are not otherwise recoverable from the Beneficiary Member State or any other beneficiary member state under any other financial assistance facility agreement,

such ESM Cost of Funding shall be adjusted to eliminate the effect of rounding in the calculation of interest on Funding Instruments in the form of bonds or notes with a fixed denomination and (if appropriate) to take into account any potential difference in the periods by reference to which interest is calculated under the Agreement and under the related Funding Instruments and the proceeds of any temporary re-investment of interest receipts by ESM when such interest periods differ. Costs and expenses incurred by ESM as part of the ESM Cost of Funding will, where possible, be deducted up-front in determining the Net Disbursement Amount, or alternatively invoiced separately. To avoid

double counting, the ESM Cost of Funding shall not include any amounts which have been deducted in establishing the Net Disbursement Amount.

"ESM Debt Securities" means Funding Instruments issued by ESM in the form of long term notes with maturity of up to the longest maturity of the relevant Facility, issued under the ESM Debt Issuance Programme on or around the time of the corresponding Disbursement under the Agreement and which pay interest at a rate comparable to the market rate which would be payable by ESM for instruments with the same maturity as such ESM Debt Securities.

"ESM Facility Guideline" means the ESM guideline applicable to the relevant category of Facility as at the date of signature of the relevant Financial Assistance Facility Agreement (unless otherwise agreed).

"ESM Interest Amount" means, (i) in relation to a PMP Outstanding Amount and a Bond Interest Period, the amount which results from accruing interest at the Interest Rate on such PMP Outstanding Amount during the relevant Bond Interest Period, as determined by ESM; and (ii) in relation to an SMP Outstanding Amount and a Bond Interest Period, the amount which results from accruing interest at the Interest Rate on such SMP Outstanding Amount during the relevant Bond Interest Period, as determined by ESM.

"ESM Investment Policy" means the document entitled "European Stability Mechanism Investment Policy" as the same may be varied, supplemented or replaced by the Board of Directors.

"ESM Member" means each euro area Member State which is a contracting party to the ESM Treaty.

"ESM Pricing Policy" means the document entitled "ESM Pricing Policy" as the same may be varied, supplemented or replaced by the Board of Governors.

"ESM Treaty" means the Treaty Establishing the European Stability Mechanism entered into between the euro area Member States.

"EU" means the European Union.

"EUR", "euro" and "€" denote the single currency unit of the Participating Member States.

"EURIBOR" means, in relation to a period:

(a) the applicable Screen Rate; or

(b) if no Screen Rate is available, the arithmetic mean of the rates (rounded upwards to four decimal places) quoted by the EURIBOR Reference Banks as the rates at which they could borrow funds in the European interbank market,

As of 11:00 a.m. (Luxembourg time) on the date falling two TARGET Days before the first day of that period for offering of deposits in euro and for a period comparable to the period for which EURIBOR is to be determined.

"EURIBOR Reference Banks" means Deutsche Bank AG, BNP Paribas and Rabobank.

"Event of Default" means an event defined in Clause 10.1.

"External Indebtedness" means all indebtedness which constitutes General Government Debt (including all indebtedness of the Beneficiary Member State and the Debt Agency) (i) which is denominated or payable in a currency other than the lawful currency of the Beneficiary Member State or (ii) which was not originally incurred or assumed under an agreement or instrument made with or issued to creditors substantially all of who are residents of the Beneficiary Member State or entities having their head office or principal place of business within the territory of the Beneficiary Member State.

"Facility" means a facility made available under a Financial Assistance Facility Agreement.

"Facility Specific Terms" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Financial Assistance Amount" means the aggregate principal amount of any Financial Assistance made available under a Facility, as more particularly determined in accordance with the relevant Facility Specific Terms.

"Financial Institution Recapitalisation Facility" means a facility to which the Financial Institution Recapitalisation: Facility Specific Terms set out in Section 4 of the Standard ESM Facility Specific Terms apply.

"Financial Support Provider" means any sovereign State or other creditor (other than the IMF or the European Union) granting a bilateral loan to the Beneficiary Member State in parallel with the ESM.

"Financing for a Specific Investment Project" means any financing of the acquisition, construction or development of

any properties in connection with a project if the providing entity for such financing expressly agrees to look to the properties financed and the revenues to be generated by the operation of, or loss or damage to, such properties as the principal source of repayment for the moneys advanced.

"First Interest Period" means, with regard to any Financial Assistance provided under a Facility, the period commencing on (and including) its Disbursement Date and ending on (but excluding) the first Interest Payment Date.

"Fund", where applicable, has the meaning given to such term in the Financial Assistance Facility Agreement.

"Fund Laws" means the laws and/or regulations constituting the Fund and/or setting out the parameters under which the Fund may participate in the recapitalisation of financial institutions, capitalise AMCs and the re-organisation or resolution of financial institutions, as such laws or regulations may be amended, supplemented or replaced from time to time.

"Funding Excess" has the meaning ascribed to such term in Clause 7(a) of the Facility Specific Terms for a PMP Facility.

"Funding Instruments" has the meaning given to that term in Preamble (C) to the Agreement.

"Funding Shortfall" has the meaning ascribed to such term in Clause 7(a) of the Facility Specific Terms for a PMP facility or as the case may be a SMP Facility.

"General Government Debt" means indebtedness comprising general government debt as determined in accordance with the European System of Accounts 1995 ("ESA 95") as laid down by Council Regulation No (EC) 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community as amended from time to time.

"General Terms" means these General Terms for ESM Financial Assistance Facility Agreements dated [●], which shall apply to all Financial Assistance made available by ESM under the Agreement.

"IMF" means the International Monetary Fund.

"IMF Arrangement" means any agreement, programme, facility or other arrangement between the Beneficiary Member State and the IMF whereby the IMF provides financing

or financial support to such Beneficiary Member State.

"Interest Payment Date" means any Payment Date on which interest is payable under the Agreement.

"Interest Period" means, in relation to any Financial Assistance provided under a Facility, the First Interest Period and each consecutive period of twelve (12) months (or such other shorter period which may be specified in the Confirmation Notice or otherwise agreed) thereafter, commencing on (and including) in the case of the First Interest Period, the Disbursement Date and for all subsequent Interest Periods, the date of the preceding Interest Payment Date for such Financial Assistance and ending on (but excluding) the earlier of (a) each subsequent Interest Payment Date and (b) final payment of principal in relation to such Financial Assistance, in each case as determined in accordance with the relevant Facility Specific Terms for that Facility.

"Interest Rate" for any Tranche or Disbursement means the rate at which interest will accrue on that Tranche or Disbursement during each Interest Period as determined by ESM, which is equal to the sum of: (a) the ESM Cost of Funding; and (b) the Margin (if any) applicable to such Financial Assistance Amount.

"Issuance Costs" means any costs, fees or expenses incurred in relation to ESM issuing or entering into Funding Instruments to finance a Financial Assistance under any Facility (including a portion of the Funding Instruments issued or entered into to fund the Liquidity Buffer) and which are due and payable on or about the date of issue of such Funding Instruments or, as applicable, the date such Funding Instruments are entered into, and any adjustment corresponding to the difference in the net proceeds of Funding Instruments due to such Funding Instruments not being issued at par value.

"Legal Officer" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Liquidity Buffer" means the proceeds of issuance of, or entry into, the pool of short term Funding Instruments (including, without limitation, the proceeds of issuance of, or entry into, short term notes, bills, commercial paper, treasury operations, DMO Lines, committed and un-committed credit lines, sale and repurchase operations) and any other instruments approved by the Board of

Directors from time to time for inclusion in the Liquidity Buffer which are issued by ESM in accordance with the ESM Borrowing Guidelines and which, from time to time, have not been used to finance a Disbursement (or a disbursement to any other beneficiary member states) or to refinance an existing Pre-Funding Operation or financing (or similar operations or financings in respect of any other beneficiary member states).

"Loan Facility" means a facility to which the Loan Facility: Facility Specific Terms set out in Section 1 of the Standard ESM Facility Specific Terms apply.

"Loss of Interest" means the difference (if it is a positive amount) between the amount of interest ESM would receive at the Interest Rate (excluding for these purposes only the Margin component, if any, of the Interest Rate) on the relevant principal amount of Financial Assistance and the interest ESM would receive (as determined by ESM) from the reinvestment of the amounts pre-paid or repaid early in each case for the period commencing on (and including) the date of the prepayment or early repayment and ending on (but excluding) the date on which the relevant Financial Assistance was scheduled to be repaid.

"Managing Director" means the managing director of ESM appointed in accordance with the ESM Treaty.

"Margin" means, unless otherwise agreed, the margin in relation to the relevant category of facility specified in the ESM Pricing Policy.

The level of the Margin applicable to any Facility may be changed by the Board of Governors.

"Market Disruption Event" means, at the time of a proposed issuance of Funding Instruments, the occurrence of events or circumstances affecting the national or international financial, political or economic conditions or international capital markets or currency exchange rates or exchange controls which in the reasonable view of ESM (as approved by the Board of Directors) are likely to prejudice materially the ability of ESM to achieve a successful issue, offering or distribution of Funding Instruments or dealings in such Funding Instruments in the secondary market.

"Maturity" means, as the context requires, the remaining period to maturity of a Purchased Bond or the period to maturity of a Disbursement of Financial Assistance.

"Maximum Average Maturity" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Maximum ECCL Disbursement Amount" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Maximum Maturity" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Maximum PCCL Disbursement Amount" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Maximum PMP Amount" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Minimum Cancellation Amount" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Minimum Voluntary Prepayment Amount" has the meaning given to such term in the Financial Assistance Facility Agreement.

"MoU" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Negative Carry" means in relation to any Financial Assistance the negative Cost of Carry (if any) incurred by ESM and allocated by ESM to the funding of that Financial Assistance in accordance with the ESM Pricing Policy.

"Net Disbursement Amount" means, in relation to any Financial Assistance under a Facility, the Financial Assistance Amount thereof less the sum of (without double counting):

- (a) any Issuance Costs;
- (b) any portion of the Service Fee which is to be deducted up-front;
- (c) the costs, charges and expenses referred to in Clause 7.10; and
- (d) any costs, fees, expenses, interest (including pre-paid interest or discount) or costs of Negative Carry,

incurred under or in connection with that Financial Assistance, any other Financial Assistance provided by ESM to the Beneficiary Member State or any Pre-Funding Operation.

"Note Issuance Documents" means any documentation relating to an issue of Purchased Bonds including any Prospectus, Conditions subscription or dealer agreement,

agency agreements, trust deed or other related or ancillary document.

"Participating Member States" means the member states of the European Union that have the euro as their lawful currency in accordance with the legislation of the European Union relating to Economic and Monetary Union.

"Party" means a party to the Financial Assistance Facility Agreement.

"Payment Date" means, in relation to any Tranche or Disbursement made available under a Facility, each scheduled date for payment of principal, interest or fees due to ESM.

"PCCL Facility" means a facility to which the Precautionary Conditioned Credit Line: Facility Specific Terms set out in Section 2 of the Standard ESM Facility Specific Terms apply.

"Permitted Encumbrances" means:

- (i) encumbrances upon any property incurred to secure the purchase price of such property and any renewal or extension of any such encumbrance which is limited to the original property covered thereby and which secures any renewal or extension of the original secured financing; and
- (ii) encumbrances on commercial goods arising in the course of ordinary commercial transactions (and expiring at the latest within one year thereafter) to finance the import or export of such goods into or from the country of the Beneficiary Member State; and
- (iii) encumbrances securing or providing for the payment of Relevant Indebtedness incurred exclusively in order to provide Financing for a Specific Investment Project, provided that the properties to which any such encumbrances apply are properties which are the subject of such project financing, or which are revenues or claims which arise from the project; and
- (iv) any other encumbrances in existence on the date of the signing of the Agreement, provided that such encumbrances remain confined to the properties presently affected thereby and properties which become affected by such encumbrances under contracts in effect on the date of the signing of the Agreement (including the crystallisation of any floating charge

which had been entered into at the date of the Agreement) and provided further that such encumbrances secure or provide for the payment of only those obligations so secured or provided for on the date hereof or any refinancing of such obligations; and

- (v) all other statutory encumbrances and privileges which operate solely by virtue of law and which cannot be reasonably avoided by the Beneficiary Member State; and
- (vi) any encumbrance granted or consented to under a securitisation transaction which has been consented to in advance by ESM provided that such transaction is consistent with the policy conditions of the MoU and is accounted for in national accounts in accordance with ESA 95 principles and Eurostat guidance on securitisation operations conducted by Member States' governments; and
- (vii) any encumbrance securing the Beneficiary Member State's obligations to any central securities depository, such as Euroclear or Clearstream, given in the ordinary course of business; and
- (viii) any encumbrance granted by an agency of the Beneficiary Member State (other than the Debt Agency) to secure indebtedness incurred by it in the ordinary course of its business to finance the ordinary and customary activities of such agency and provided that the proceeds of such financing are not on-lent or otherwise made available to the central government or the Debt Agency;
- (ix) any encumbrance securing an indebtedness of less than EUR 3 million, **provided that** the maximum aggregate of all indebtedness secured by such encumbrances shall not exceed EUR 50 million; and
- (x) any security created by the Fund (if applicable) in favour of ESM in accordance with the terms of a financial assistance facility agreement.

"PMP Amount" means the aggregate purchase price together with related fees, commissions and costs (except to the extent such fees, commissions and costs have been reimbursed by the Beneficiary Member State) of the relevant Purchased Bonds acquired pursuant a PMP Operation entered into under the PMP Facility.

"PMP Facility" means a facility to which the Primary Market Bond Purchase Facility: Facility Specific Terms set out in Section 5 of the Standard ESM Facility Specific Terms apply.

"PMP Facility Final Maturity Date" has the meaning given to such term in the Financial Assistance Facility Agreement.

"PMP Operation" means a primary market purchase of bonds of a Series of Bonds, such purchase being made for a purchase price per bond equal to (i) in relation to bonds issued by way of an auction process, the weighted average price of all bonds issued, and (ii) in relation to bonds issued in the context of a syndicated transaction, the re-offer price of any such bond.

"PMP Operation Maturity Date" means in relation to a PMP Operation the date specified in the relevant Confirmation Notice.

"PMP Outstanding Amount" means the aggregate of the subscription price together with related fees commissions and costs paid by ESM to acquire Purchased Bonds under a PMP Operation (except to the extent such commissions, fees and expenses have been reimbursed by the Beneficiary Member State) less the aggregate of (i) the principal amount reimbursed by the Beneficiary Member State in respect of such Purchased Bonds and (ii) the proceeds of re-sale of such Purchased Bonds net of any commissions, fees or expenses (and excluding any portion of the sale proceeds that relates to accrued interest).

"PMP Principal Amount" means the aggregate principal amount of a Series of Bonds to be acquired by ESM in a PMP Operation.

"PMP Reserve Buffer" means a reserve maintained by ESM to provide a reserve against losses or shortfalls (between interest received on Purchased Bonds and ESM's funding and related costs of financing its PMP Operations (such as hedging costs and transaction costs including back office costs, custodian costs, agent fees and service fees)) incurred in relation to the PMP Facility in accordance with the ESM Pricing Policy and which shall be invested in accordance with the ESM Investment Policy.

"Pool Funded Financial Assistance" means each Facility, Tranche or Disbursement of Financial Assistance to the Beneficiary Member State which is not a Back-to-Back Financed Financial Assistance and is funded on a pooled basis by ESM's pools of short term and long term Funding Instruments.

"Precautionary Facility" means a PCCL Facility or an ECCL Facility.

"Pre-Funding Agreement" means an agreement substantially in the form of Schedule 1 (*Form of Pre-Funding Agreement*) executed by the Beneficiary Member State and ESM to authorise ESM to enter into Pre-Funding Operations: (i) prior to the receipt by ESM of a Request for Funds; or (ii) following receipt by ESM of a Request for Funds but prior to the satisfaction of all the conditions to disbursement and the issuance by ESM of an Acceptance Notice.

"Pre-Funding Operation" means an advanced borrowing transaction as described in Clause 5.7 pursuant to which ESM, if it deems necessary and with the agreement of the Beneficiary Member State, issues or enters into Funding Instruments to pre-finance a specific Financial Assistance on the basis of a Pre-Funding Agreement, which Pre-Funding Operation may occur prior to the time when the conditions precedent to the disbursement of such Financial Assistance are satisfied.

"Pre-Subscription or Subscription Agreement" means a contract for the pre-subscription or the subscription of Bank Capital Instruments in a credit institution, financial institution or AMC by the Fund in the form agreed between ESM, the Beneficiary Member State and the Fund.

"Prospectus" means any prospectus, offering circular or other marketing document relating to an issue of Purchased Bonds.

"Public Internal Indebtedness" means all General Government Debt (including all indebtedness of the Beneficiary Member State (and the Debt Agency) and which (i) is denominated in the lawful currency of the Beneficiary Member State, but is not External Indebtedness; (ii) is in the form of or represented by bonds, notes or other securities or any guarantee thereof; and (iii) is or may be quoted or listed or ordinarily purchased and sold on any stock exchange, automated trading system, over-the-counter or other securities market.)

"Purchased Bonds" means any debt securities in the form of notes, bonds or bills forming part of any Series of Bonds where such notes, bonds or bills are subscribed or purchased by ESM under a PMP Operation under the PMP Facility or under a SMP operation under a SMP Facility.

"Relevant Indebtedness" means all External Indebtedness and Public Internal Indebtedness.

"Relevant Stock Exchange" has the meaning given to such term in the Financial Assistance Facility Agreement.

"Request for Funds" means the Beneficiary Member State's request for a Tranche or Disbursement under a Facility to be made substantially in the form of Schedule 3 under which such request is to be made.

"Schedule" means a Schedule to the Agreement.

"Screen Rate" means the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period, displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, ESM may specify another page or service displaying the appropriate rate after consultation with the Beneficiary Member State.

"Series of Bonds" means, on any date, debt securities in the form of notes or bonds which belong to the same series and are issued by the Beneficiary Member State in the primary market on such date, either by way of an auction process or in the context of a syndicated transaction.

"Service Fee" represents the source of general revenues and resources to cover operational costs of ESM, comprising:

- (i) the upfront service fee as applies under the ESM Pricing Policy calculated and deducted upfront (without double counting) on the Financial Assistance Amounts under a Tranche or Disbursement; and
- (ii) the annual service fee as applies under the ESM Pricing Policy, which will accrue from day to day on the outstanding principal amount under each Facility in each Interest Period,

each as determined in accordance with the ESM Pricing Policy as the same may be modified from time to time.

The upfront service fee shall be deducted from the amount to be disbursed to the Beneficiary Member State under any Facility provided on the terms of the Agreement or, if not so deducted, paid in arrears by the Beneficiary Member State upon receipt of an invoice from ESM, **provided that:**

- (A) if ESM makes a Disbursement by delivery of ESM Debt Securities, the upfront service fee shall be deducted from the next Disbursement in cash made under any Facility provided by

ESM to that Beneficiary Member State or may be invoiced separately to that Beneficiary Member State;

- (B) in the case of a PCCL Facility or a ECCL Facility, (x) the upfront service fee will be invoiced at the inception of the programme based on the maximum agreed amount of a single Disbursement and, once paid, will be deducted from any subsequent upfront service fee obligations which may become due as a result of an actual Disbursement under the PCCL Facility or the ECCL Facility, as the case may be, and (y) the annual service fee will be calculated based on amounts outstanding under such Facility; and
- (C) in the case of a SMP Facility, an advance payment of the service fee of up to EUR 50 million (in an amount determined by the Board of Directors) will be invoiced initially and upon any Disbursement under the SMP Facility the service fee will be invoiced on the basis of actual Disbursements after giving credit for such advance payment.

The inclusion of the annual service fee as a component of the ESM Cost of Funding is without prejudice to any faculty of a Beneficiary Member State to treat this fee as an operating cost in its national accounts. The level of the Service Fee applicable to the Facilities may be amended from time to time by the Board of Directors and approved by the Board of Governors.

"SMP Amount" means the aggregate of the purchase prices together with related fees, commissions and costs of the relevant Purchased Bonds acquired pursuant to a SMP Operations entered into under the SMP Facility.

"SMP Facility" means a facility to which the Secondary Market Bond Purchase Facility: Facility Specific Terms set out in Section 6 of the Standard ESM Facility Specific Terms apply.

"SMP Operation Maturity Date" means in relation to each SMP Operation the date specified in the relevant Confirmation Notice.

"SMP Operation" means a secondary market purchase in relation to a Series of Bonds, such purchase being made for a purchase price per bond which reflects the parameters set by the Board of Directors and the Technical Sub-Committee.

"SMP Outstanding Amount" means, in relation to a SMP Operation, the aggregate of the purchase price together with related fees commissions and costs paid by ESM to acquire Purchased Bonds under such SMP Operation (except to the extent such commissions, fees and expenses have been reimbursed by the Beneficiary Member State) less the aggregate of (i) the principal amount reimbursed by the Beneficiary Member State in respect of such Purchased Bonds and (ii) the proceeds of re-sale of such Purchased Bonds net of any commissions, fees or expenses (and excluding any portion of the sale proceeds that relates to accrued interest).

"SMP Principal Amount" means the aggregate principal amount of a Series of Bonds to be acquired by ESM in a SMP Operation.

"Standard ESM Facility Specific Terms" means the Standard ESM Facility Specific Terms for ESM Financial Assistance Facility Agreements dated [●] 2012.

"TARGET Day" means any day on which TARGET2 is open for the settlement of payments in euro.

"TARGET2" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

"Technical Sub-Committee" means the technical sub-committee of the Board of Directors which will be established for the purpose of deciding on the means of implementation of secondary market interventions as contemplated by the ESM Guideline on the Secondary Market Support Facility.

"Term" means the tenor of any Financial Assistance provided under a Facility which may not exceed the period from the Disbursement Date of the relevant Financial Assistance to the final Payment Date or dates as specified in the relevant Confirmation Notice.

"Tranche" means for any Facility, the sums under that relevant Facility which have been the subject of a Request for Funds and a related Acceptance Notice; a Tranche may be disbursed in one or more Disbursements.

2.2 Construction

2.2.1 Unless a contrary indication appears, a reference in this Agreement to:

- (a) a provision of law is a reference to that provision as amended or re-enacted;
- (b) a time of day is a reference to Luxembourg time;
- (c) **"amendment"** includes any amendment, supplement, variation, novation, modification, replacement or restatement and "amend", "amending" and "amended" shall be construed accordingly;
- (d) an **"approval"** (or to any other decision, however described, under the Agreement) by the Board of Governors or the Board of Directors means an approval or decision by the relevant majority of such body required under the ESM Treaty;
- (e) **"assets"** includes present and future properties, revenues and rights of every description;
- (f) a **"guarantee"** includes any guarantee, first demand guarantee, performance bond, letter of credit, indemnity or similar assurance in respect of loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (g) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (h) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- (i) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if

not having the force of law compliance with which is customary for those to whom it is addressed) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and

- (j) a "**security interest**" includes any type of security and transfer by way of security.

2.2.2 It is acknowledged and agreed that ESM shall make Facilities available under the Agreement subject to the terms of the ESM Treaty and that any obligations of ESM to make available Facilities or Disbursements are subject to the terms of and constitute an application of the ESM Treaty.

2.2.3 The Table of Contents, Section, Clause and Schedule headings are for ease of reference only and shall not be taken into consideration in interpreting the Agreement.

3. **THE FINANCIAL ASSISTANCE FACILITY AND SPECIFIC FACILITIES**

3.1 ESM shall make available to the Beneficiary Member State Financial Assistance in the form of a Facility or Facilities under the terms of the Agreement. The Financial Assistance Facility Agreement shall specify which of the Facility Specific Terms are applicable and set out the specific terms and conditions applicable to the relevant Beneficiary Member State. At least one (1) of the Facility Specific Terms must apply to each Financial Assistance Facility Agreement.

3.2 The availability of financial assistance under the Agreement is subject to the terms and conditions of the MoU.

3.3 In the event that the Beneficiary Member State wishes to obtain financial assistance in the form of an additional or alternative form of Facility not then included in the Agreement, it shall request such other Facility in writing by a letter addressed to the Chairperson of the Board of Governors provided that the amount of such other Facility when aggregated with all other Financial Assistance Amounts [(with the exception of any SMP Outstanding Amounts)] that ESM has made available to the Beneficiary Member State under the Agreement shall not exceed the Aggregate Financial Assistance Amount. Following any such written request:

3.3.1 the Board of Governors shall decide, in principle, whether or not an additional or alternative Facility may be made available;

3.3.2 following any such approval by the Board of Governors, the Board of Governors shall entrust the Commission (in liaison with the ECB and, where appropriate, the IMF) to negotiate any necessary modification or supplement to the MoU (if applicable) and the Managing Director shall make a proposal to the Board of Governors of the Facility Specific Terms for the relevant Facility including the financial terms and conditions;

3.3.3 following a decision of the Board of Governors to approve the proposal, the Managing Director shall negotiate the detailed terms of the Facility Specific Terms and any modification to the Agreement;

3.3.4 subject to completion of the procedures in Clauses 3.3.1 and 3.3.2 and approval of the amended MoU by the Board of Governors, the Commission shall sign the MoU (as modified or supplemented) on behalf of ESM;

3.3.5 following the approval by the Board of Directors, ESM, the Beneficiary Member State and the Central Bank and the Fund (if applicable) shall enter into such amendments and/or supplements to the Agreement as are necessary to provide the relevant Facility.

3.4 In the event that the Beneficiary Member State desires that an unused amount under one Facility be made available for disbursement under another Facility (if any), it shall request that such unused amount be made available under such other Facility in writing by a letter addressed to the Chairperson of the Board of Governors. Following any such written request:

3.4.1 the Board of Governors shall decide whether or not, in principle, any unused amount under one Facility may be made available under another Facility;

3.4.2 following any such approval by the Board of Governors, the Board of Governors shall entrust the Commission (in liaison with the ECB and, where appropriate, the IMF) to negotiate any necessary modification

- or supplement to the MoU (if applicable) and the Managing Director shall make a proposal to the Board of Governors regarding any adaptations to the Agreement to permit such unused amount be made available under such other Facility;
- 3.4.3 following a decision by the Board of Governors to approve the proposal, the Managing Director shall negotiate any modification to the Agreement;
- 3.4.4 subject to completion of the procedures in Clauses 3.4.1 and 3.4.2 and approval by the Board of Governors, the Commission shall sign the MoU (as modified or supplemented) on behalf of ESM; and
- 3.4.5 following the approval by the Board of Directors, ESM, the Beneficiary Member State, the Central Bank and the Fund (if applicable) shall enter into such amendments and/or supplements to the Agreement in accordance with Clause 4 of the Financial Assistance Facility Agreement as are necessary to provide that such unused amount is available for disbursement under such other Facility.
- 3.5 The Beneficiary Member State shall apply all amounts made available to it under the Agreement in conformity with its obligations under the MoU.
- 3.6 All Financial Assistance will be denominated solely in euro, which shall be the currency of account and payment.
- 3.7 Subject to Clause 3.4, any amounts not disbursed under a Facility on or prior to the last day of the Availability Period of that Facility shall be immediately cancelled.
4. **ENTRY INTO FORCE AND CONDITIONS PRECEDENT**
- 4.1 Following its signature by all Parties, a Financial Assistance Facility Agreement shall enter into force on the date on which each of the following conditions (together with the further conditions (if any) set out in such Financial Assistance Facility Agreement) have been satisfied:
- 4.1.1 ESM has received a legal opinion satisfactory to it given by the Legal Officer of the Beneficiary Member State (and, where applicable, the legal counsel to the Fund) in respect of the Agreement and in the form set out in Schedule 2 (*Forms of Legal Opinion*).
- Such legal opinion shall be delivered at least one (1) Business Day prior to the date of the first Request made under any Facility or, if earlier, one (1) Business Day prior to the date of the Pre-Funding Agreement;
- 4.1.2 ESM has received from the Minister of Finance of the Beneficiary Member State (or other person acceptable to ESM in its sole discretion) an official document indicating the persons authorised to sign the Agreement, any Request for Funds and any other documents to be delivered under any Facility Specific Terms (and thus validly commit the Beneficiary Member State) and containing the specimen signatures of these persons;
- 4.1.3 the signature of the MoU or a supplement to the MoU (as the case may be) by all parties thereto; and
- 4.1.4 the Board of Directors have approved the terms of the Agreement (including the relevant Facility Specific Terms for the Applicable Facilities signed on the date of the Agreement).
- 4.2 The Facility Specific Terms relating to a Facility shall enter into force on the date determined in accordance with the terms of such Facility Specific Terms.
- 4.3 The Beneficiary Member State's right to request Financial Assistance under any Facility expires on the relevant Availability Period Termination Date following which any undisbursed amount of the Aggregate Financial Assistance Amount under that Facility shall be considered as immediately cancelled.
5. **REQUESTS, DISBURSEMENTS AND CONDITIONS TO DISBURSEMENTS**
- 5.1 Subject to the terms and conditions of the Financial Assistance Facility Agreement, the relevant Facility Specific Terms and the MoU, the Beneficiary Member State may, after consultation with ESM, request a Tranche or Disbursement under the relevant Facility by delivering to ESM a duly completed and valid Request for Funds.
- 5.2 A Request for Funds will only be considered as duly completed and valid if:
- 5.2.1 it specifies the aggregate of the Financial Assistance Amounts to be made available under the relevant Facility in respect of that Request for Funds;

- 5.2.2 it specifies the latest Disbursement Date by which date all Financial Assistance requested in that Request for Funds under the relevant Facility shall have been disbursed or made available; and
 - 5.2.3 it specifies such other matters required by the Facility Specific Terms applicable to that Request for Funds.
- 5.3 Following receipt of a duly completed and valid Request for Funds, ESM's obligation to make Financial Assistance under a Facility available to the Beneficiary Member State shall be subject to:
- 5.3.1 the conditions precedent referred to in Clause 4.1.1 to 4.1.3 being satisfied;
 - 5.3.2 the signature of a supplement to the MoU, if applicable;
 - 5.3.3 the Beneficiary Member State confirming in writing and ESM being satisfied that no event has occurred (which has not been cured to the satisfaction of ESM) that constitutes an Event of Default or render incorrect or inaccurate any statement made in the legal opinion(s) received by ESM under Clause 4.1.1. or in any representation or warranty made under the Agreement;
 - 5.3.4 the Board of Directors, after considering the most recent periodic assessment of the Beneficiary Member State by the Commission in liaison with the ECB, being satisfied with the compliance by the Beneficiary Member State with the terms of the MoU, including prior actions (if any);
 - 5.3.5 ESM being satisfied that the conditions to drawdown under the Agreement are satisfied;
 - 5.3.6 the Board of Directors having approved the Tranche or Disbursement under the relevant Facility Specific Terms (including in the case of the Financial Institution Recapitalisation Facility the conditions set out in Clause 4 (*Requests, Disbursements and Conditions to Disbursements*) of Section 4 of the Facility Specific Terms) are satisfied;
 - 5.3.7 ESM being satisfied that no litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which have a reasonable likelihood of success and which may prejudice the Beneficiary Member State's performance of the MoU, the Agreement or the transactions contemplated therein or which would be reasonably likely to have a material adverse effect on the Beneficiary Member State's ability to perform its obligations under the MoU, the Agreement, or the transactions contemplated therein have been started or threatened in writing against the Beneficiary Member State; and
- 5.3.8 no material adverse change having occurred since the date of the Agreement such as would, in the opinion of ESM, after consultation with the Beneficiary Member State, be likely to prejudice materially the ability of the Beneficiary Member State to fulfil its payment obligations under the Agreement, *i.e.* to service the Financial Assistance and to repay it when due hereunder.
- 5.4 If the conditions in Clause 5.3 are satisfied, ESM shall send the Beneficiary Member State an Acceptance Notice setting out the provisional terms on which ESM is willing to make available the relevant Tranche or a particular Disbursement or Disbursements to the Beneficiary Member State. Following the acknowledgement of an Acceptance Notice by the Beneficiary Member State, the Beneficiary Member State and ESM shall irrevocably be bound by the terms of the Acceptance Notice, subject to however in all cases the non-occurrence of a Market Disruption Event or Event of Default prior to the date of each Disbursement referred to on such Acceptance Notice.
- 5.5 If no acknowledgement from the Beneficiary Member State is received by ESM within one (1) Business Day of delivery by ESM of an Acceptance Notice, such notice shall be cancelled and shall be of no further effect and the Beneficiary Member State shall be required to submit a new Request for Funds.
- 5.6 After serving the Acceptance Notice and receiving the Beneficiary Member State's acknowledgement of the terms set out therein, ESM shall either:
- 5.6.1 disburse the relevant funds or make the relevant Financial Assistance available to the Beneficiary Member State by use of any proceeds previously obtained from Pre-Funding Operations or from the Liquidity Buffer; or

- 5.6.2 for any amount not raised through Pre-Funding Operations or from the Liquidity Buffer, ESM shall, at its discretion, launch the issue or enter into Funding Instruments to permit the funding of the relevant Tranche, or Disbursement; or
- 5.6.3 for any disbursement to be made *in specie*, deliver ESM Debt Securities to the Beneficiary Member State, to the Fund or to the legal person designated for this purpose by the Beneficiary Member State.
- 5.7 If ESM considers that a Pre-Funding Operation is necessary in respect of any Tranche and the Beneficiary Member State and ESM agree to and enter into a Pre-Funding Agreement (i) prior to the receipt of a Request for Funds or (ii) following a receipt of a Request for Funds but prior to the satisfaction of all the conditions to disbursement and the issuance of an Acceptance Notice, in each case in respect of that Tranche, the Beneficiary Member State further expressly authorises ESM to enter into Pre-Funding Operations to pre-finance all such Financial Assistance up to the maximum aggregate amount of principal set out in the Pre-Funding Agreement. ESM shall inform the Beneficiary Member State in writing of the financial terms of all such Pre-Funding Operations. The Beneficiary Member State shall pursuant to Clause 7.7 bear all costs incurred by ESM in relation to Pre-Funding Operations (including any financing costs, margin, Negative Carry, losses, costs, hedging costs or other fees or expenses) regardless of whether any Financial Assistance is in fact made available and such amounts shall be paid to ESM on the Disbursement Date or within five (5) Business Days of demand by ESM.
- 5.8 In the event that ESM, subject to compliance with the then applicable ESM Borrowing Guidelines, can only raise funds to finance or refinance the relevant Tranche or Disbursement by issuing Funding Instruments denominated in a currency other than euros and by entering into related currency hedging arrangements, any additional costs incurred by ESM in connection with currency hedging arrangements shall be borne by the Beneficiary Member State.
- 5.9 After serving an Acceptance Notice in respect of a Tranche or Disbursement and receiving the Beneficiary Member State's written acknowledgement of the terms set out therein, subject to any conditions applicable to the provision of Financial Assistance under the relevant Facility as set out in the applicable Facility Specific Terms, ESM shall issue to the Beneficiary Member State a Confirmation Notice setting out the financial terms applicable to each Tranche or Disbursement, as the case may be. In the case of a Tranche made up of a series of Disbursements, a separate Confirmation Notice shall be issued for each Disbursement. By acknowledging the terms of an Acceptance Notice, the Beneficiary Member State shall be deemed to have accepted in advance the terms of the Financial Assistance set out in each Confirmation Notice. The Beneficiary Member State shall bear its share of the allocation of all costs incurred by ESM in relation to the financing (including any financing costs, margin, Negative Carry, losses, costs, hedging costs or other fees or expenses) as further provided in Clause 7.7.
- 5.10 If ESM, due to prevailing market conditions at the time of launching an issue of or seeking to enter into Funding Instruments to fund Financial Assistance, is not able to obtain funding, then ESM shall not be under any obligation to make further disbursements of Financial Assistance in respect of such Tranche.
- 5.11 The disbursement of any Financial Assistance shall under no circumstances commit any of the Parties to proceed with the provision and acceptance of any further Financial Assistance whether under the Agreement or any other agreement between the Parties. ESM is under no obligation to consider favourably any request by the Beneficiary Member State at any time to amend or reschedule the financial terms of any Financial Assistance.
- 5.12 Subject to the terms of a Financial Assistance Facility Agreement, on each Disbursement Date, ESM shall make the relevant Financial Assistance amount (or the relevant portion thereof) available to the Beneficiary Member State:
- 5.12.1 by instructing the ECB no later than 11:00 a.m. (Frankfurt time) on the Disbursement Date to transfer the Net Disbursement Amount on the Disbursement Date to the Designated Euro Account of the Beneficiary Member State, or in the case of a Disbursement other than by the disbursement of funds, by making available the Disbursement in accordance with the relevant Facility Specific Terms; and

5.12.2 any Issuance Costs shall be paid by ESM out of the sums retained in respect of the Issuance Costs or may be recovered under Clause 7.7.

6. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

6.1 Representations

Each of the Beneficiary Member State and, where applicable, the Fund represents and warrants to ESM on the date of execution of the Financial Assistance Facility Agreement, on any subsequent date when any Facility Specific Terms become incorporated into the Agreement, on the date of execution of any Pre-Funding Agreement, and on each Disbursement Date that:

6.1.1 the legal opinion of the Legal Officer provided in accordance with Clause 4.1.1 is accurate and correct;

6.1.2 the law of the Beneficiary Member State does not require ESM to be authorised as a credit institution or to obtain any licence, consent, or regulatory or administrative authorisation as a condition to providing any Financial Assistance or to be able to enforce (i) the Beneficiary Member State's obligations in relation to such Financial Assistance against the Beneficiary Member State or (ii) the Fund's obligations in relation to such Financial Assistance against the Fund, or if applicable, that an exemption to such requirement exists for ESM under the law of the Beneficiary Member State; and

6.1.3 the entry into and performance by it of, and the transactions contemplated by, the Agreement and the MoU (and the transactions contemplated therein) does not and will not (i) violate any applicable law, regulation or ruling of any competent authority or any agreement, contract or treaty binding on it or any of its agencies; (ii) constitute a default or termination event (howsoever described) under any of the matters listed in sub-paragraph (i); or (iii) result in the creation of security or give rise to an obligation to grant security or transfer assets (by way of collateral or economically similar arrangements) in favour of any other person, other than security to be created by the Fund (if applicable) in favour of ESM as expressly contemplated in the Agreement; and

6.1.4 to the best of its knowledge and belief (having made due and careful enquiry), no litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which have a reasonable likelihood of success and which may prejudice its execution or performance of the MoU, the Agreement or the transactions contemplated therein or which, if adversely determined are reasonably likely to have a material adverse effect on its ability to perform its obligations under the MoU, the Agreement, or the transactions contemplated therein, have been started or threatened in writing against it.

6.2 Undertakings

The Beneficiary Member State undertakes, in relation to General Government Debt, until such time as all commitments of ESM under the Agreement have ceased, all Financial Assistance has been fully reimbursed and all interest and additional amounts, if any, due under the Agreement have been fully paid:

6.2.1 with the exception of Permitted Encumbrances:

- (a) not to secure by mortgage, pledge or any other encumbrance upon its own assets or revenues any present or future Relevant Indebtedness and any guarantee or indemnity given in respect thereof, unless the Financial Assistance shall, at the same time, share rateably in such security; and
- (b) not to grant to any other creditor or holder of its sovereign debt any priority over its obligations to ESM under the Agreement;

6.2.2 to utilise all Financial Assistance in accordance with the Financial Assistance Facility Agreement and the MoU (as the same has been modified or supplemented as at the date of the relevant Request for Funds applicable to such Financial Assistance);

6.2.3 (A) to utilise any ESM Debt Securities received (i) under a Financial Institution Recapitalisation Facility or (ii) where the purpose of a Disbursement is specified to be to recapitalise financial institutions (or to capitalise AMCs) or (iii) to cover resolution costs, solely for the purpose

of financing the recapitalisation of financial institutions (or the capitalisation of AMCs) or covering the resolution costs of financial institutions in the Beneficiary Member State by providing financing to the Fund to subscribe Bank Capital Instruments issued by the financial institutions (or AMCs) or to cover the resolution costs of financial institutions in each case as specified and in accordance with the Agreement and the MoU and (B) not to sell, transfer, grant security over or otherwise deal with these ESM Debt Securities other than in accordance with the Agreement and the MoU provided that prior to funds being disbursed to the Fund or contributed to the Fund by the Beneficiary Member State, ESM shall have confirmed that it is satisfied in relation to the legal instruments and documentation between the Beneficiary Member State and the Fund setting out the legal basis of such contribution of funds to the Fund by the Beneficiary Member State;

- 6.2.4 to procure that the Fund shall not use ESM Debt Securities delivered to the Fund under the Financial Institution Recapitalisation Facility or any other Disbursement which is specified to be for the purpose of recapitalising financial institutions (capitalising AMCs) or covering the resolution costs of financial institutions solely to subscribe for Bank Capital Instruments in a financial institution or AMC or covering the resolution costs of financial institutions without the prior written approval of ESM including confirmation by ESM that it is satisfied in relation to the legal mechanism, instruments and documentation between the Fund and the relevant financial institution or AMC setting out the terms on which the Fund subscribes or pre-subscribes for Bank Capital Instruments in such financial institution;
- 6.2.5 to procure that the Fund shall not subscribe for Bank Capital Instruments in a financial institution or AMC or covered the resolutions costs of a financial institution by using ESM Debt Securities as consideration unless the Fund and the financial institution or AMC have entered into a Pre-Subscription or Subscription

Agreement substantially in the form agreed between ESM, the Beneficiary Member State and the Fund;

- 6.2.6 to procure (and to cause the Fund to procure) that the financial institutions which are re-capitalised (or AMCs which are capitalized) under the Financial Institution Recapitalisation Facility or any other Disbursement which is specified to be for the purpose of recapitalising financial institutions (or capitalising AMCs) shall enter into legally binding undertakings (i) to use such ESM Debt Securities solely for the purpose of obtaining liquidity through repurchase transactions with market counterparties (ensuring the right of repurchasing the same securities or securities of the same series and nominal amount at the term of the repurchase transaction) and/or for the purpose of obtaining liquidity from the ECB or the Central Bank of the relevant Beneficiary Member State as part of the Eurosystem or as security for such other arrangements as are approved in advance by ESM, (ii) to return or sell such ESM Debt Securities to the Fund (if applicable) or the Beneficiary Member State pursuant to call options or other similar arrangements upon any sale by the Fund of all or part of the Bank Capital Instruments which the Fund holds in the relevant credit institutions (unless the credit institution no longer holds or cannot obtain re-delivery of such ESM as a consequence of transactions entered into which comply with the terms of this Agreement) and (iii) such undertakings shall be in terms such that they are directly enforceable by ESM as a third party beneficiary of such undertakings;
- 6.2.7 to comply with the additional undertakings set out in the Financial Assistance Facility Agreement, any applicable Facility Specific Terms and any Acceptance Notice;
- 6.2.8 to obtain and maintain in full force and effect all authorisations necessary for it and (if applicable) the Fund to comply with its or their respective obligations under the Agreement;
- 6.2.9 to comply in all respects with applicable laws which might affect its ability to perform the Agreement;

- 6.2.10 to pay the amount allocated by ESM to the Beneficiary Member State of any fees, costs and expenses, including in particular Issuance Costs, breakage or termination costs, and Cost of Carry incurred in respect of any Funding Instruments or hedging contract which ESM may have undertaken (including in relation to the amounts raised to fund the Liquidity Buffer, financings and/or Pre-Funding Operations) in accordance with any applicable ESM guidelines, but regardless of whether the provision of any Financial Assistance or any disbursement under a Facility takes place;
- 6.2.11 more generally, to indemnify and hold harmless ESM on demand from and against any additional interest, costs, claims, losses, damages, liabilities and expenses (including legal fees, costs of investigation and any value added tax or equivalent thereof) incurred or suffered by ESM and which result from (i) any information which is received from the Beneficiary Member State in connection with the Agreement, the transactions contemplated therein or in the MoU being incorrect, inaccurate or misleading; (ii) any breach of the representations, warranties and/or undertakings in the Agreement; and/or (iii) any action, claim, demand, proceeding, investigation, arbitration or judgment brought against ESM in connection with ESM entering into and the performance of the Agreement or in connection with the transactions contemplated therein or in the MoU;
- 6.2.12 to notify ESM in case any representation or warranty, legal opinion or other information provided to ESM is or becomes inaccurate, incorrect or misleading in any respect; and
- 6.2.13 if Financial Assistance is being provided in the form of a Financial Institution Recapitalisation Facility or if any portion of a Loan Facility is specified to be used for the purposes of recapitalising any financial institution or capitalising an AMC, to procure, subject to any qualification or limitation set out in the Financial Assistance Facility Agreement, that the national financial institution recapitalisation fund (if any) guarantees (in form satisfactory to ESM) that portion of the facility and to provide upon the request of ESM first ranking security (in form satisfactory to ESM) over all bank capital instruments acquired with the proceeds of such Facility.
- 6.3 The Fund (where applicable) undertakes until such time as all principal under the Agreement has been fully reimbursed and all interest and additional amounts, if any, due under the Agreement have been fully paid:
- 6.3.1 not to secure by mortgage, pledge or any other encumbrance upon the Bank Capital Instruments or assets or revenues of the Fund in relation thereto, any present or future indebtedness of the Beneficiary Member State, the Fund or any other entity or person or any guarantee or indemnity given in respect thereof, unless the Financial Assistance shall, at the same time, share rateably in such security, provided that this Clause 6.3.1 shall not apply to any security granted over the ESM Debt Securities which secures any arrangement which has been approved in advance by ESM;
- 6.3.2 not to grant to any other creditor (other than IMF) any priority over ESM;
- 6.3.3 to obtain and maintain in full force and effect all authorisations necessary for it to comply with its obligations under the Agreement;
- 6.3.4 to comply with the terms of Clauses 6.2.3, 6.2.4, 6.2.5 and 6.2.13 above; and
- 6.3.5 to comply in all respects with applicable laws which might affect its ability to perform the Agreement.
- 6.4 The Fund (where applicable) undertakes, that, until such time as all principal under the Agreement has been fully reimbursed and all interest and additional amounts, if any, due under the Agreement have been fully paid, it will, upon the request of ESM, following consultation with the Beneficiary Member State and, subject to any qualification or limitation set out in the Financial Assistance Facility Agreement, grant valid first ranking security over all of its rights and interest in and in relation to the Bank Capital Instruments as security for the performance of its obligations under the Agreement.
- 6.5 The Beneficiary Member State shall ensure that, until all principal under the Agreement has been fully repaid, all Bank Capital

Instruments acquired pursuant to recapitalisations or financial support of financial institutions in the Beneficiary Member State using the proceeds of Financial Assistance provided under the Agreement shall be acquired by the Fund.

- 6.6 Each of the Beneficiary Member State and, if applicable, the Central Bank undertakes that, following a request by ESM pursuant to Clause 6.4 above, subject to any qualification or limitation set out in the Financial Assistance Facility Agreement, it will do all things necessary (including in relation to the registration of such security interest and the payment of any fees, costs, expenses or taxes in relation thereto) in order to procure that such a security interest is validly and properly granted in favour of ESM and is legally binding on each of the Fund, the Beneficiary Member State and the Central Bank. Each of the Beneficiary Member State and the Fund shall indemnify ESM in relation to any amounts paid by ESM in connection with the establishment, perfection, registration or enforcement of any security granted pursuant to Clause 6.4 and any such amounts shall be payable to ESM on demand from either or each of the Beneficiary Member State and the Fund.

7. INTEREST, COSTS, FEES AND EXPENSES

- 7.1 In respect of each Financial Assistance under a Facility, interest shall accrue on the Financial Assistance Amounts at a rate equal to the applicable Interest Rate during each Interest Period. In the case of Back-to-Back Financed Financial Assistance, ESM shall issue an invoice for interest due and payable in respect of Back-to-Back Financed Financial Assistance under the Facilities for each Interest Period at least ten (10) calendar days prior to each Payment Date. In the case of Pool Funded Financial Assistance, ESM shall issue an estimate of interest to become due and payable in respect of Pool Funded Financial Assistance under the Facilities for each Interest Period at least ten (10) Business Days prior to the last day of such Interest Period and shall issue an invoice for interest due and payable in respect of Pool Funded Financial Assistance under the Facilities in respect of each Interest Period one (1) Business Day prior to the last day of such Interest Period.
- 7.2 On each Payment Date under a Facility the Beneficiary Member State shall pay in cleared funds to the account designated to it in writing by ESM for this purpose (or to such other

account as the Parties may agree from time to time) an amount equal to the interest due and payable in respect of such Facility on such Payment Date.

- 7.3 The Beneficiary Member State shall pay its annual allocation of the Commitment Fee either (i) following the receipt of an invoice or (ii) on the first Payment Date under any Tranche or Disbursement following the determination of the amount to be paid as annual Commitment Fee.
- 7.4 Without prejudice to the terms of Clause 10 (*Events of Default*), if the Beneficiary Member State fails to pay any sum payable under a Facility on its due date, the Beneficiary Member State shall pay in addition default interest on such sum (or, as the case may be, the amount thereof for the time being due and unpaid) to ESM from the Payment Date (or other due date) to the date of actual payment in full, calculated by reference to successive interest periods (each of such length as ESM may from time to time select, the first period beginning on the relevant Payment Date (or other due date) and, wherever possible, the length of such period shall be that of one week) at the rate per annum which is equal to the number of basis points per annum specified for such purpose in the ESM Pricing Policy over the higher of (a) the EURIBOR rate applicable to the relevant period selected by ESM and (b) the Interest Rate which would have been payable if the overdue had, during the period of non-payment, constituted Financial Assistance under the relevant Facility (if any). So long as the failure to pay continues, such rate shall be re-fixed in accordance with the provisions of this Clause 7.4 on the last day of each such interest period and unpaid interest under this Clause concerning previous interest periods shall be added to the amount of interest due at the end of each such interest period. The default interest is immediately due and payable.
- 7.5 On each Payment Date the Beneficiary Member State shall pay to ESM any Commitment Fees, Service Fees and other fees then due as may be specified in the relevant Facility Specific Terms accrued on the relevant Facility during the Interest Period ending on such Payment Date (except as otherwise paid).
- 7.6 ESM shall, during each Interest Period, provide to the Beneficiary Member State on a regular basis details of the Interest Rate and any other amounts accrued under the Facilities during the relevant Interest Period.

- 7.7 Except to the extent deducted pursuant to Clause 7.8, the Negative Carry, Loss of Interest, Issuance Costs and all other commissions, fees and costs incurred by ESM in respect of Pre-Funding Operations or financings shall be promptly paid by the Beneficiary Member State within five (5) Business Days following the receipt of invoices which ESM will periodically provide, such payment to be made to the account designated in writing by ESM for this purpose.
- 7.8 ESM shall be entitled to deduct the Negative Carry together with all other commissions, fees and costs related to any Pre-Funding Operations and all other amounts that may be deducted in determining the Net Disbursement Amount in relation to any Financial Assistance (whether under the Agreement or any other facility provided by ESM to the Beneficiary Member State) when calculating the Net Disbursement Amount to be made available in relation to a disbursement of funds settled in cash (whether or not the amounts deducted relate to that disbursement of funds).
- 7.9 In the event that any hedging instrument in relation to a Funding Instrument which is financing any Financial Assistance is terminated early for any reason (including early termination by ESM in accordance with the hedging instrument documentation) then the Beneficiary Member State or the relevant beneficiary member states shall indemnify ESM in respect of the cost of servicing the relevant Funding Instrument on a non-hedged basis and any costs incurred as a consequence of such early termination (to the extent such costs are not already included in ESM Cost of Funding). There shall not be any double counting between amounts due to ESM under Clause 6.2.10 and this Clause 7.9.
- 7.10 The Beneficiary Member State shall pay within five (5) Business Days of demand by ESM all costs, charges and expenses, including legal, professional, banking or exchange charges incurred in connection with the preparation, execution, implementation and termination of the Agreement and any related document, any amendment or waiver in respect of the Agreement and any related document including the costs and expenses payable by ESM in relation to the preparation and issuance of Funding Instruments to finance the Financial Assistance provided hereunder, and authorises ESM to deduct such costs, charges and expenses from any Financial Assistance Amount in determining the Net Disbursement Amount. These costs and expenses to be borne by the Beneficiary Member State include legal costs (such as costs incurred to obtain legal opinions and drafting documentation where applicable), rating agency costs, listing costs, travel costs (if applicable), commissions related to the Funding Instruments, fees of service providers and clearance systems, taxes, registration fees and publication costs.
- 7.11 The Beneficiary Member State shall in addition bear all such other costs, charges, fees and expenses in connection with the Facilities at such times and in such manner as is set out in any Facility Specific Terms.
- 7.12 Any amount payable by the Beneficiary Member State in respect of costs, charges, fees and expenses or otherwise in accordance with this Clause 7 (*Interest, Costs, Fees and Expenses*) for which no due date for payment is specified in this Clause 7 (*Interest, Costs, Fees and Expenses*) shall be payable within five (5) Business Days of demand by ESM.
- 8. REPAYMENT, EARLY REPAYMENT, MANDATORY REPAYMENT AND CANCELLATION**
- 8.1 This Clause 8 is subject to the specific terms applying to a Facility as set out in the Financial Assistance Facility Agreement or in the applicable Facility Specific Terms.
- 8.2 The Beneficiary Member State:
- 8.2.1 shall repay the principal amount of each Financial Assistance Amount in cleared funds to the account designated to it in writing by ESM for this purpose (or to such other account as the Parties may agree from time to time for the purpose of the Agreement) on the date(s) (each of which must be an Interest Payment Date) and under the conditions notified to it by ESM in the relevant Confirmation Notice; and
- 8.2.2 may voluntarily repay any Financial Assistance Amount together with accrued interest and all other amounts due in respect thereof before its due date (but after the end of the Availability Period) in a minimum principal amount equal to or greater than the Minimum Voluntary Prepayment Amount if:
- (a) it requests permission to make such voluntary prepayment in writing by a letter addressed to the Managing Director which is made at least thirty (30) Business Days prior to the proposed voluntary prepayment date, and any such request shall be

irrevocable and binding on the Beneficiary Member State subject to the terms of this Clause 8.2.2, and

(b) the Board of Directors approves the principal amount of such voluntary prepayment, the date of such voluntary prepayment and the Facility or Facilities to which such prepayment will be applied and informs the Beneficiary Member State of the amount of all costs, expenses, fees, Loss of Interest, Negative Carry, breakage costs and costs of termination of any hedging which will become payable by the Beneficiary Member State in connection with such voluntary prepayment and any other amounts due under Clause 8.4 in respect thereof.

The Beneficiary Member State shall make such voluntary prepayment and pay the related costs in the amounts determined by the Board of Directors on the approved voluntary repayment date. Amounts repaid may not be re-borrowed.

- 8.3 If financing granted to the Beneficiary Member State under the IMF Arrangement or under any of the facilities provided by the Financial Support Providers, the IMF, the European Union (or any body or institution thereof) is repaid by the Beneficiary Member State in advance in whole or in part on a voluntary or mandatory basis, a proportional amount of the Financial Assistance Amounts of the Financial Assistance provided under the Agreement together with accrued interest and all other amounts due in respect thereof shall become immediately due and repayable in a proportionate amount established by reference to the proportion which the principal sum repaid in advance in respect of the IMF Arrangement or the relevant facility represents to the aggregate principal amount outstanding in respect of the IMF Arrangement or such facility immediately prior to such repayment in advance.
- 8.4 The Beneficiary Member State shall pay on the date of any early repayment of any Financial Assistance (whether such early repayment is voluntary or mandatory) all accrued interest and all other amounts due in respect of the amount repaid and shall reimburse all costs, expenses, fees, hedge or other breakage costs, Loss of Interest incurred and/or payable by ESM as a consequence of an early repayment in respect of such Financial Assistance (including without limitation fees, costs and expenses, including prepayment premiums or Costs of Carry incurred by ESM in connection with the continued holding or early repayment or call of short term and/ or long term Funding Instruments).
- 8.5 The Beneficiary Member State may cancel, on not less than ten (10) Business Days' prior written notice, the whole or any part (being equal to or greater than the Minimum Cancellation Amount) of the undisbursed amount of a Facility, provided that no Request for Funds for that amount has been made under the relevant Facility. ESM will maintain the right to assess the adequacy of the remaining programme in the circumstances where a Beneficiary Member State cancels the whole or any part of the undisbursed amount of a Facility. The Beneficiary Member State shall remain fully liable to ESM in respect of any costs, expenses, fees, hedge, breakage costs or liquidity costs incurred in connection with the cancelled portion of a Facility.
- 8.6 ESM may by written notice to the Beneficiary Member State:
- 8.6.1 cancel the whole or any part of the undisbursed amount of a Facility if the Beneficiary Member State notifies its intention not to draw any more under the Agreement;
- 8.6.2 cancel the whole or any part of the reduced amount of a Facility if the MoU or the Proposal is amended in a way that reduces the amount of the Financial Assistance available to the Beneficiary Member State;
- 8.6.3 cancel the whole or any part of the undisbursed amount of a Facility and request immediate repayment in full of all Facilities, including all amounts referred to in Clause 8.4, if the Beneficiary Member State is found to have failed to comply with Clause 12.3; and
- 8.6.4 suspend the whole or any part of the undisbursed amount of a Facility if the Beneficiary Member State fails to fulfill its obligations under Articles 8, 9 and 10 of the ESM Treaty.
- 8.7 ESM may also cancel as it deems appropriate the whole or any part of the undisbursed amount of any or all Facilities to the Beneficiary Member State if the IMF cancels the IMF Arrangement or any other Financial Support Provider or the European Union (or any body or institution thereof) cancels in

whole or in part any support facility entered into with, or in respect of, the Beneficiary Member State. In this case the cancellation of a Facility shall be proportionate to (a) in the case of cancellation by the IMF, the proportion which the sum cancelled represents to the aggregate initial principal amount of such IMF Arrangement and (b) in the case of cancellation of any of the other facilities, the proportion which the cancelled amount represents to the aggregate of the initial amounts of the Agreement and each of the facilities provided by each of the other Financial Support Providers or the European Union (or any body or institution thereof).

8.8 If the proceeds of any Disbursement are used by the Beneficiary Member State to finance the recapitalisation of a financial institution or the capitalisation of an AMC under the Financial Institution Recapitalisation Facility as confirmed by the terms of the relevant Request for Funds and Acceptance Notice:

8.8.1 the Beneficiary Member State shall provide the proceeds of such disbursement to the Fund (if applicable) for it to recapitalise the relevant financial institutions or to capitalise the relevant AMC(s) by way of subscribing Bank Capital Instruments;

8.8.2 the Beneficiary Member State shall notify ESM in writing in the event that it receives a payment from the Fund (if applicable) or it or the Fund (if applicable) receives a payment from a recapitalised financial institution or if the Fund (if applicable) or the Beneficiary Member State sells to a third party any loan, bond, debt security, shares or capital or other instrument (including, *inter alia*, Bank Capital Instruments) which it holds in relation to the relevant financial institution or AMC (or any of their affiliates) in connection with the recapitalisation of that financial institution or capitalisation of such AMC. The Beneficiary Member State shall, upon written notice from ESM, having given reasonable consideration to losses under the portfolio of the Beneficiary Member State and the Fund (if applicable) related to the recapitalisation of financial institutions or capitalisation of AMCs (provided that such consideration shall only reduce the principal amount that will be payable in respect of any Facility at maturity to the extent a principal repayment has actually been made

upon such sale), repay a portion of any Facility demanded by ESM (together with accrued interest on such portion), such portion not to exceed the amount received by the Beneficiary Member State from the Fund or by the Beneficiary Member State or by the Fund from the relevant financial institution or AMC by way of reimbursement or the proceeds of sale of the relevant loan, bond, debt security, shares or capital or other instrument realised by the Beneficiary Member State or the Fund. The Fund (if applicable) shall not unnecessarily delay the payment to the Beneficiary Member State of undistributed profit resulting from its operations;

8.8.3 in the event that the Beneficiary Member State realises a profit upon resale or placement of any loan, bond, debt security, share, capital or other instrument which it holds in relation to that financial institution or AMC (or any of their affiliates), in connection with the recapitalisation of such financial institution or capitalisation of such AMC then the Beneficiary Member State shall promptly (and in any event within five (5) Business Days of receipt of such profit by the Beneficiary Member State) repay a portion of any Facility demanded by ESM (together with accrued interest on such portion) in an amount equal to such realised profit; and

8.8.4 in the event that a repayment under this Clause 8.8 gives rise to an obligation to repay or pre-pay financing which may be granted to the Beneficiary Member State by the IMF (if any), under any of the facilities provided by the Financial Support Providers, the European Union (or any institution thereof), ESM acknowledges and agrees that the amount to be repaid to ESM under this Clause 8.8 shall be reduced proportionately using the methodology set out in Clause 8.7 (except that references to cancellations in Clause 8.7 shall be deemed to be references to principal repayments for the purposes of such reduction). A repayment under this Clause 8.8 shall constitute a scheduled repayment and not a voluntary or mandatory repayment.

9. PAYMENTS

9.1 All payments to be made by the Beneficiary Member State under the Agreement shall be paid without set-off or counterclaim, free and clear of, and without deduction for and on account of, any taxes, commissions and any other charges for the entire term of the Agreement.

9.2 The Beneficiary Member State declares that all payments and transfers under the Agreement are not subject to any tax or any other impost in the country of the Beneficiary Member State and shall not be so subject for the entire term of the Agreement. If nevertheless the Beneficiary Member State or the Central Bank is required by law to make any such deductions, the Beneficiary Member State shall pay the requisite additional amounts so that, after making any deduction as is required by law, ESM receives in full the amounts specified by the Agreement.

9.3

9.3.1 All repayments shall be made in cleared funds in euro except in the circumstances set out in the Acceptance Notice where a Disbursement was made by delivery of ESM Debt Securities in which event reimbursement shall where possible be made by re-delivery of ESM Debt Securities of the same series and in the same nominal amount as the ESM Debt Securities which were delivered in satisfaction of the relevant disbursement provided that if two or more series of ESM Debt Securities were used to make a disbursement, the reimbursement shall be made by redelivering proportionate amounts of each such series.

9.3.2 If the Beneficiary Member State is required to discharge a Financial Assistance (or disbursement) by redelivery of ESM Debt Securities which have a maturity date which is the same as the date for repayment of such Financial Assistance (or disbursement) or with a maturity date which is fourteen (14) Business Days or less prior to such repayment date, then the Beneficiary Member State shall transfer such ESM Debt Securities into a dedicated securities account no less than fourteen (14) Business Days prior to the date for repayment and shall only withdraw such ESM Securities from such dedicated securities account for the

purpose of making the relevant redelivery of ESM Debt Securities to ESM under the Agreement.

9.4 All payments by the Beneficiary Member State to ESM shall be made via SWIFT message MT202 in TARGET2 on the due date before 11:00 a.m. (Frankfurt time) to the TARGET2 participant SWIFT-BIC: ECBFDEFFBAC in favour of the account designated to it in writing by ESM for this purpose (or to such other bank or securities account as the Parties may agree from time to time for the purpose of the Agreement).

9.5 ESM shall advise the Beneficiary Member State and the Central Bank no later than the dates specified in Clause 7.1 of the amount of principal and interest due and payable on the relevant Payment Dates and of the details (Interest Rate, Interest Period) on which the interest calculation is based.

9.6 The Beneficiary Member State shall send to ESM and to the ECB a copy of the payment instructions sent by the Beneficiary Member State and relating to a payment due to ESM under the Agreement at least two (2) Business Days prior to the relevant due date.

9.7 If the Beneficiary Member State shall pay, on a given date, an amount in relation to any Financial Assistance which is less than the total amount due and payable on such date under the relevant Facility Specific Terms, the Beneficiary Member State hereby waives any rights it may have to make any appropriation of the amount so paid as to the amounts due.

The amount so paid in respect of such Financial Assistance shall be applied in or towards satisfaction of payments due in relation to such Financial Assistance in the following sequence:

9.7.1 *first* against any fees, costs, expenses and indemnities (including but not limited to any Issuance Costs and Commitment Fees);

9.7.2 *second* against any interest for late payments as determined under Clause 7.3;

9.7.3 *third* against other interest; and

9.7.4 *fourth* against principal,

provided that these amounts are due, accrued or overdue for payment on that date.

9.8 Any calculation by ESM under the Agreement:

9.8.1 by ESM shall be made in a commercially reasonable manner; and

9.8.2 by the ECB or ESM shall, absent manifest error, be binding on ESM and the Beneficiary Member State.

10. EVENTS OF DEFAULT

10.1 ESM, may, by written notice to the Beneficiary Member State cancel all or any part of the Facilities (or any of them) and/or declare the aggregate principal amount of any or all Financial Assistance made and outstanding under the Facilities to be immediately due and payable, together with accrued interest and all other amounts due in respect thereof and/or exercise any or all of its rights, remedies, powers or discretions under the Agreement or under the applicable law, if:

10.1.1 the Beneficiary Member State or the Fund shall fail to pay to ESM any amount of principal or interest in relation to any Financial Assistance or any other amounts due under the Agreement on its due date, whether in whole or in part, in the manner and currency as agreed in the Agreement; or

10.1.2 the Beneficiary Member State, the Central Bank (if applicable) or the Fund (if applicable) shall default in the performance of any obligation under the Agreement (including the obligation set out in Clause 3.5 to apply any Financial Assistance in accordance with the terms of the MoU (but excluding any other obligations under the MoU) other than the obligations referred to in Clause 10.1.1, and such default shall continue for a period of one month after written notice thereof shall have been given to the Beneficiary Member State by ESM; or

10.1.3 ESM sends the Beneficiary Member State a declaration of default in circumstances where the Beneficiary Member State's, the Central Bank's, and/or (if applicable) the Fund's obligations under the Agreement are declared by a court of competent jurisdiction not to be binding on or enforceable against the Beneficiary Member State, the Fund (if applicable) or the Central Bank or are declared by a court of competent jurisdiction to be illegal; or

10.1.4 ESM sends the Beneficiary Member State a declaration of default in circumstances where (i) it has been established that in relation to the

Agreement or the MoU, the Beneficiary Member State, the Central Bank or (if applicable) the Fund has engaged in any act of fraud or corruption or any other illegal activity, or any other actions detrimental to ESM or (ii) any representation or warranty made by the Beneficiary Member State under the Agreement is inaccurate, untrue or misleading and which in the opinion of ESM could have a negative impact on the capacity of the Beneficiary Member State or (if applicable) the Fund to fulfil its obligations under the Agreement or prejudice the rights of ESM under the Agreement; or

10.1.5 any agreement for the provision of a loan or any other financial assistance between the Beneficiary Member State, the Central Bank and ESM, EFSF, EFSM, IMF or any EU institution or body, regardless of amount, is the subject of a declaration of default or there is a default on any payment obligation of any kind towards ESM or any EU institution or body by the Beneficiary Member State and such payment default gives rise to a declaration of default; or

10.1.6 Relevant Indebtedness of the Beneficiary Member State or (if applicable) the Fund having an aggregate principal amount in excess of EUR 250,000,000 is the subject of a declaration of default as defined in any instrument governing or evidencing such indebtedness and as a result of such a declaration of default there is an acceleration of such indebtedness or a *de facto* moratorium on payments; or

10.1.7 the Beneficiary Member State does not make timely repurchases from the IMF in relation to the IMF Arrangement of any outstanding purchases in accordance with the applicable repurchase obligation schedule or has overdue charges on outstanding purchases and the managing director of the IMF has notified the Executive Board of the IMF that such repurchases or such payment of charges have become overdue; or

10.1.8 any loan agreement or agreement for the provision of financial assistance between the Beneficiary Member State or (if applicable) the Fund and any institution or body of the EU, the IMF

- or any other Financial Support Provider, regardless of amount, is the subject of a declaration of default; or
- 10.1.9 the Beneficiary Member State does not pay a substantial portion of its Relevant Indebtedness as it falls due or declares or imposes a moratorium on the payment of its Relevant Indebtedness or of Relevant Indebtedness assumed or guaranteed by it.
- 10.2 ESM may, but is not obliged to, exercise its rights under this Clause and may also exercise them only in part without prejudice to the future exercise of such rights.
- 10.3 The Beneficiary Member State shall pay default interest, as provided in Clause 7.4 above, which shall accrue as from the date when the outstanding principal amount in respect of such Financial Assistance has been declared immediately due and payable, until the date of actual payment in full.
- 11. INFORMATION UNDERTAKINGS**
- 11.1 With effect from the date of the Agreement and for so long as any amount is outstanding under the Agreement or any commitment under the Agreement is in force, the Beneficiary Member State shall supply to ESM:
- 11.1.1 all documents dispatched by the Beneficiary Member State to its creditors generally at the same time as they are dispatched and shall supply to ESM as soon as reasonably practicable following receipt, all documents issued generally to creditors of any other entities which incur indebtedness which constitutes General Government Debt;
- 11.1.2 all documents dispatched by the Beneficiary Member State to the IMF under an IMF Arrangement or any Financial Support Provider;
- 11.1.3 each periodic report on the progress made in fulfilment of the terms of the MoU;
- 11.1.4 promptly, such further information regarding its fiscal and economic condition as ESM may reasonably request;
- 11.1.5 any information pertaining to any event which could reasonably be expected to cause an Event of Default to occur (and the steps, if any, being taken to remedy it); and
- 11.1.6 a declaration that the Beneficiary Member State no longer intends to request any more Financial Assistance under the Agreement, as soon as that is the case.
- 11.2 The Beneficiary Member State undertakes to provide ESM promptly with all information reasonably requested by ESM in connection with the warning system established pursuant to Article 13(6) of the ESM Treaty.
- 11.3 The Beneficiary Member State undertakes to inform ESM promptly if any event occurs that would render incorrect any statement made in the legal opinion referred to in Clause 4.1.1 above.
- 11.4 The Beneficiary Member State undertakes to promptly notify ESM in the event that it becomes actually aware that litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which may prejudice its execution or performance of the MoU, the Agreement or the transactions contemplated therein or which, if adversely determined, would be reasonably likely to have a material adverse effect on its ability to perform its obligations under the MoU, the Agreement, or the transactions contemplated therein, have been started or threatened in writing against it.
- 11.5 If Financial Assistance is provided in the form of a Financial Institution Recapitalisation Facility, the Fund undertakes to provide to ESM promptly such further information regarding the Bank Capital Instruments and the recapitalised financial institutions or capitalised AMCs concerned as ESM may reasonably request.
- 12. UNDERTAKINGS RELATING TO INSPECTIONS, FRAUD PREVENTION AND AUDITS**
- 12.1 The Beneficiary Member State shall permit ESM to send its own agents or duly authorised representatives to carry out any technical or financial assessments, due diligence, controls or audits that it considers necessary in relation to the management of the Agreement and any Financial Assistance provided thereunder.
- 12.2 The Beneficiary Member State directly or through the Fund (if applicable) and/or the Central Bank (if relevant) or the Debt Agency shall supply to ESM, ECB, the Commission and (where appropriate) IMF relevant information and documents which may be requested for the purpose of such assessments, controls or audits, provide full cooperation and take all suitable measures to facilitate the

work of persons instructed to carry them out. The Beneficiary Member State, the Fund (if applicable) and the Central Bank undertake to give to the persons referred to in this Clause 12 (*Undertakings relating to Inspections, Fraud Prevention and Audits*) (or to procure the giving to such persons of) access to sites and premises where the relevant information and documents are kept.

- 12.3 The Beneficiary Member State, the Fund (if applicable) and the Central Bank (if relevant) shall ensure investigation and satisfactory treatment of any suspected and actual cases of fraud, corruption or any other illegal activity in relation to the management of the Agreement and any Financial Assistance provided thereunder. All such cases as well as measures related thereto taken by national competent authorities shall be reported to ESM and the Commission without delay.

13. NOTICES

- 13.1 All notices in relation to the Agreement shall be validly given if in writing and sent to the addressees listed in Schedule 1 (*List of Contacts*) to the Financial Assistance Facility Agreement. Each Party will update the details of addressees and notify the same to each other Party hereto upon the same being amended from time to time.
- 13.2 All notices shall be given by registered mail. In case of urgency, they can be given by fax, SWIFT message or by hand-delivered letter to the addressees above mentioned and confirmed by registered mail without undue delay. Notices shall become effective upon the actual receipt by the relevant addressee of the fax, the SWIFT message or the hand-delivered letter.
- 13.3 All documents, information and materials to be furnished under the Agreement shall be in the English language.
- 13.4 Each Party to the Agreement will notify to the other Parties the list and specimen signatures of the persons authorised to act on its behalf under the Agreement, prior to its signature of the Agreement. Likewise, each Party will update such list and notify the other Parties hereto upon the same being amended from time to time.

14. GUARANTEE AND INDEMNITY

- 14.1 If a Financial Assistance Facility Agreement or the MoU contemplates that ESM financial assistance will be used to recapitalise financial institutions or to capitalise AMC via the Fund this Clause 14 shall apply.

14.2 The Fund irrevocably and unconditionally:

- 14.2.1 guarantees to ESM punctual performance by the Beneficiary Member State of the Beneficiary Member State's obligations under the Agreement in connection with Financial Assistance used to finance the recapitalisation of financial institutions in the Beneficiary Member State (including the Financial Institution Recapitalisation Facility);
- 14.2.2 undertakes with ESM that whenever the Beneficiary Member State does not pay any amount when due under or in connection with the Agreement, the Fund (if applicable) shall immediately on demand pay that amount as if it was the principal obligor provided that such amount is due in connection with Financial Assistance used to finance the recapitalisation of financial institutions in the Beneficiary Member State (including the Financial Institution Recapitalisation Facility); and
- 14.2.3 agrees with ESM that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal it will, as an independent and primary obligation, indemnify ESM immediately on demand against any cost, loss or liability it incurs as a result of the Beneficiary Member State not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Agreement in connection with Financial Assistance used to finance the recapitalisation of financial institutions (including the Financial Institution Recapitalisation Facility) in the Beneficiary Member State on the date when it would have been due. The amount payable by the Fund under this indemnity will not exceed the amount it would have had to pay under this Clause 14 if the amount claimed had been recoverable on the basis of a guarantee.
- 14.3 The guarantee set out in Clause 14.1 is a continuing guarantee and will extend to the ultimate balance of sums payable by the Beneficiary Member State under the Agreement, regardless of any intermediate payment or discharge in whole or in part.
- 14.4 If any discharge, release or arrangement (whether in respect of the obligations of the

Beneficiary Member State or any security for those obligations or otherwise) is made by ESM in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Fund under this Clause 14 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

14.5 The obligations of the Fund under this Clause 14 will not be affected by any act, omission, matter or thing which, but for this Clause 14.5, would reduce, release or prejudice any of its obligations under this Clause 14 (without limitation and whether or not known to it or to ESM) including:

14.5.1 any time, waiver or consent granted to, or composition with, the Beneficiary Member State or other person;

14.5.2 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Beneficiary Member State or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

14.5.3 any incapacity or lack of power or authority of the Beneficiary Member State or any other person;

14.5.4 any amendment, novation, supplement, extension or restatement (however fundamental and whether or not more onerous) or replacement of the Agreement or any other document or security including without limitation any change in the purpose of, any extension of, or any increase in, any facility or the addition of any new facility under the Agreement or other document;

14.5.5 any unenforceability, illegality or invalidity of any obligation of any person under the Agreement or any other document or security; or

14.5.6 any moratorium in relation to the Beneficiary Member State or any insolvency or similar proceedings in relation to any other person.

14.6 The Fund waives any right it may have of first requiring ESM to proceed against or enforce any other rights or security or claim payment

from any person before claiming from the Fund under this Clause 14. This waiver applies irrespective of any law or any provision of any document to the contrary.

14.7 Until all amounts which may be or become payable by the Beneficiary Member State under or in connection with the Agreement have been irrevocably paid in full, ESM may:

14.7.1 refrain from applying or enforcing any other moneys, security or rights held or received by it in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Fund shall not be entitled to the benefit of the same; and

14.7.2 hold in an interest-bearing suspense account any moneys received from the Fund or on account of any of the Fund's liability under this Clause 14.

14.8 Until all amounts which may be or become payable by the Beneficiary Member State under or in connection with the Agreement have been irrevocably paid in full, the Fund will not exercise any rights which it may have by reason of performance by it of its obligations under the Agreement or by reason of any amount being payable, or liability arising, under this Clause 14:

14.8.1 to be indemnified by the Beneficiary Member State;

14.8.2 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary Member State under the Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Agreement;

14.8.3 to bring legal or other proceedings for an order requiring the Beneficiary Member State to make any payment, or perform any obligation, in respect of which the Fund has given a guarantee, undertaking or indemnity under Clause 14.1;

14.8.4 to exercise any right of set-off against the Beneficiary Member State; and/or

14.8.5 to claim or prove as a creditor of the Beneficiary Member State in competition with ESM.

If the Fund receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to ESM by

the Beneficiary Member State under or in connection with the Agreement to be repaid in full on trust for ESM and shall promptly pay or transfer the same to ESM.

14.9 This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by ESM.

15. MISCELLANEOUS

15.1 (a) The Parties to the Agreement acknowledge and undertake to comply with the terms of the MoU and the ESM Facility Guidelines.

(b) The Parties to the Agreement acknowledge and agree to the terms of the ESM Borrowing Guidelines, the ESM Investment Policy and the ESM Pricing Policy and acknowledge and agree that they shall apply to this Agreement as they are varied, supplemented or replaced from time to time in accordance with the ESM Treaty.

15.2 Neither the Beneficiary Member State nor the Fund (if applicable) shall have any right to assign or transfer any of its rights or obligations under the Agreement without the prior written consent of ESM.

16. GOVERNING LAW AND JURISDICTION

16.1 The Agreement and any non-contractual obligations arising out of or in connection with the Agreement shall be governed by and shall be construed in accordance with public international law, the sources of which shall be taken for these purposes to include:

(a) the ESM Treaty and any other relevant treaty obligations that are binding reciprocally on the Parties;

(b) the provisions of any international conventions and treaties (whether or not binding directly as such on the parties) generally recognised as having codified or ripened into binding rules of law applicable to states and to international financial institutions, as appropriate, including, without limitation, the Vienna Convention on the Law of Treaties Between States and International

Organizations or between International Organizations done at Vienna on 21 March 1986; and

(c) applicable general principles of law.

16.2 The rights and obligations of the Parties under the Agreement shall be valid and enforceable in accordance with their terms notwithstanding the law of any state or political subdivision thereof to the contrary. Neither the Beneficiary Member State, nor the Central Bank nor the Fund (if applicable) shall be entitled in any proceeding under this Clause 16 to assert any claim that any provision of this Agreement is invalid or unenforceable for any reason.

16.3 Any Dispute shall be submitted for settlement in accordance with Article 37 of the ESM Treaty.

16.4 The parties agree that the dispute resolution mechanism in this Clause 16 is exclusive and prevents the exercise of any other right a party may have in connection with the resolution of a Dispute. The parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under applicable law.

16.5 No delay in exercising, or omission to exercise, any right, power or remedy by ESM under the Agreement shall impair any such right, power or remedy or be construed to be a waiver or acquiescence.

17. SCHEDULES

The Schedules of these General Terms shall constitute an integral part of these General Terms, shall constitute an integral part of the Agreement and comprise:

Schedule 1: Form of Pre-Funding Agreement

Schedule 2: Form of Legal Opinions

Schedule 3: Form of Request for Funds

Schedule 4: Form of Acceptance Notice

Schedule 5: Form of Confirmation Notice

Schedule 1
Form of Pre-Funding Agreement¹

AUTHORISATION FOR PRE-FUNDING AND INDEMNITY AGREEMENT (THE "PRE-FUNDING AGREEMENT")

This **Authorisation for Pre-funding and Indemnity Agreement** is made by and between:

(1) **EUROPEAN STABILITY MECHANISM ("ESM")**, an intergovernmental organisation established by the Treaty Establishing the European Stability Mechanism entered into between the euro area Member States, having offices at 43, avenue John F. Kennedy, L-1855 Luxembourg, represented by Mr. Klaus Regling, Managing Director; and

(2) [●] represented by [●], as the Beneficiary Member State (the "**Beneficiary Member State**").

1. The Parties and the Central Bank are parties to a Financial Assistance Facility Agreement dated [●] under which ESM has agreed to make available to the Beneficiary Member State a Financial Assistance Facility in an Aggregate Financial Assistance Amount of up to EUR [●] billion, as amended and supplemented by the Facility Specific Terms dated [●] in respect of the EUR [●] Facility (together, the "**FFA**"). Terms defined in the FFA shall have the same meaning in this Pre-Funding Agreement.

2. The Financial Assistance will be made available in one or more Tranches each of which may be disbursed in one or more Disbursements. ESM and the Beneficiary Member State hereby acknowledge and agree that advance borrowings in the form of Pre-Funding Operations may be effected by ESM for the purpose of pre-funding a future Tranche whether or not a written Request for Funds from the Beneficiary Member State has been delivered to ESM and prior to the issuance of an Acceptance Notice by ESM. The Beneficiary Member State hereby authorises ESM to enter into such Pre-Funding Operations in a maximum aggregate amount of principal of EUR [●] in respect of the Tranche to be made available following the periodic review by the Commission in liaison with the ECB of compliance with policy conditionality by the Beneficiary Member State.

¹ Note: This form is subject to being amended or supplemented to the satisfaction of ESM during the preparation of each Financial Assistance Facility Agreement to take into account the provisions of each Financial Assistance Facility Agreement and the Facilities provided thereunder.

3. The Beneficiary Member State hereby undertakes to pay to ESM all costs (including the Negative Carry, as defined in the FFA, and all commissions, fees and costs) resulting from such Pre-Funding Operations, even if for whatever reason, in particular due to time needed for decision-making relating to the provision of the Financial Assistance based on the compliance with Clauses 4 (*Entry into Force and Conditions Precedent*) and 5 (*Requests, Disbursements and Conditions to Disbursements*) of the FFA, the disbursement to the Beneficiary Member State of the net proceeds of the relevant Pre-Funding Operations is delayed or it does not take place.

4. For a pre-funded Tranche that is subsequently disbursed (becoming thereafter treated as a financing), the Cost of Carry accrues from the date ESM commences incurring liability for interest under the relevant Funding Instruments until the relevant Disbursement Date (or the date on which the proceeds of the relevant Funding Instruments are used to refinance any other Funding Instruments) or, if the proceeds of the Pre-Funding Operation are not partly or entirely disbursed, until the maturity of the relevant Funding Instrument for the undisbursed proceeds. For a pre-funded Tranche where the disbursement is delayed, for whichever reason, the Cost of Carry accrues from the date ESM commences incurring liability for interest under the relevant Funding Instruments and until the date that a final decision on the use of the funds has been taken by ESM, after consultation with the Beneficiary Member State. For a pre-funded Tranche that is not subsequently disbursed, the Beneficiary Member State remains liable for all the costs incurred by ESM in relation to the Pre-Funding Operations, in accordance with Clause 5.7 of the FFA.

5. The Beneficiary Member State shall, on the Disbursement Date specified in the relevant Acceptance Notice (if any) or within five (5) Business Days of demand by ESM, pay all costs incurred by ESM in relation to Pre-Funding Operations (including financing costs, margin, Negative Carry, losses, costs, hedging costs or other fees or expenses) regardless of whether any Financial Assistance is in fact made available provided that the maximum aggregate amount of principal for Pre-Funding Operations is the amount specified in paragraph 1 above.

6. If the Beneficiary Member State fails to pay any amount under this Pre-Funding Agreement on the date it is due for payment,

this shall constitute an Event of Default under Clause 10.1 of the FFA.

7. The fact that ESM is prepared to carry out and enter into a Pre-Funding Operation will not condition in any respect its decision regarding the compliance by the Beneficiary Member State with the economic policy conditions of the MoU or on whether the conditions precedent to the provision of any Financial Assistance under any Tranche have been satisfied.
8. Once the conditions foreseen in Clause 4 (*Entry into Force and Conditions Precedent*) and Clause 5 (*Requests, Disbursements and Conditions to Disbursements*) of the FFA are fulfilled and an Acceptance Notice has been issued and acknowledged, ESM will issue a Confirmation Notice for the Financial Assistance prefunded.
9. Clauses 13 (*Notices*), 14 (*Guarantee and Indemnity*), 15 (*Miscellaneous*) and 16 (*Governing Law and Jurisdiction*) of the FFA shall also apply to this Pre-Funding Agreement as if references to "the Agreement" were to this Pre-Funding Agreement.
10. This Pre-Funding Agreement enters into force upon the signature by each of the Parties.

This Pre-Funding Agreement is provided to the Central Bank for information.

EUROPEAN STABILITY MECHANISM

Represented by

[●]

The Beneficiary Member State

[●]

Represented by

Schedule 2
Forms of Legal Opinions²

Part I

[Form of Legal Opinion for Beneficiary Member State]

Office of [●]

(to be issued on official letterhead of the Office of the Legal Officer)

[place, date]

To: European Stability Mechanism
43, avenue John F. Kennedy
L-1855 Luxembourg
Attention: Chief Financial Officer

Re: **EUR [●] Financial Assistance Facility Agreement between European Stability Mechanism (as ESM), [●] (as Beneficiary Member State), [●] as Central Bank and [●] as Guarantor signed on [●]**

Dear Sirs,

In my capacity as [●], I refer to the above referenced Financial Assistance Facility Agreement and all its Schedules which constitute an integral part thereof (hereinafter together referred to as the "**Agreement**") entered into between the European Stability Mechanism (hereinafter referred to as "**ESM**"), [●] (hereinafter referred to as the "**Beneficiary Member State**"), the Central Bank of [●] and [insert name of national financial institution recapitalisation fund] on [●]. I also refer to the Memorandum of Understanding signed on [●] [insert date] [and its subsequent updates the most recent of which was signed on [●],] between the Commission, the Beneficiary Member State [and [●]] (hereinafter referred to as the "**MoU**").

I warrant that I am fully competent to issue this legal opinion in connection with the Agreement on behalf of the Beneficiary Member State.

I have examined originals or copies of the executed versions of the Agreement and of the MoU. I have also examined the relevant provisions of national and international law applicable to the Beneficiary Member State and the Central Bank of [●], the powers of signatories and such other documents as we have deemed necessary or appropriate. Furthermore, I have made such other investigations and reviewed such matters of law as I have

considered relevant to the opinion expressed herein.

I have assumed (i) the genuineness of all signatures (except those on behalf of the Beneficiary Member State and the Central Bank of [●]) and the conformity of all copies to originals, (ii) the capacity and power to enter into the Agreement of, and their valid authorisation and signing by, each Party other than the Beneficiary Member State and the Central Bank of [●] and (iii) the validity, binding effect and enforceability of the Agreement on each Party under the laws of [●].

Terms used and not defined in this opinion shall have the meaning set out in the Agreement in the MoU.

This opinion is limited to [●] law as it stands at the date of this opinion.

Subject to the foregoing, I am of the opinion that:

1. With respect to the laws, regulations and legally binding decisions currently in force in [●], the Beneficiary Member State is by the execution of the Agreement by [●], validly and irrevocably committed to fulfil all of its obligations under it. In particular, the provisions of the Agreement relating to the provision of Financial Assistance are fully valid.
2. The Beneficiary Member State's execution, delivery and performance of the Agreement and signature of the MoU: (i) have been duly authorised by all necessary consents, actions, approvals and authorisations; and (ii) have not and will not violate any applicable law, regulation or ruling of any competent authority or any agreement or treaty binding on it.
3. The representations and warranties given by the Beneficiary Member State in the Agreement are true and accurate.
4. Nothing in the Agreement contravenes or limits the rights of the Beneficiary Member State to make punctual and effective payment of any sum due for the principal, interest or other charges under the Agreement.
5. The Agreement is in proper legal form under [●] law for enforcement against the Beneficiary Member State the Central Bank of [●]. The enforcement of the Agreement would not be contrary to mandatory provisions of [●] law, to the *ordre public* of [●], to international treaties or to generally accepted principles of international law binding on the Beneficiary Member State and [●].
6. It is not necessary in order to ensure the legality, validity or enforceability of the

² Note: These forms are subject to being amended or supplemented to the satisfaction of ESM during the preparation of each Financial Assistance Facility Agreement to take into account the provisions of each Financial Assistance Facility Agreement and the Facilities provided thereunder.

Agreement that it be filed, recorded, or enrolled with any court or authority in [●].

[Signatory]

7. No taxes, duties, fees or other charges imposed by [●] or any taxing authority thereof or therein are payable in connection with the execution and delivery of the Agreement and with any payment or transfer of principal, interest, commissions and other sums due under the Agreement.
8. No exchange control authorisations are required and no fees or other commission are to be paid on the transfer of any sum due under the Agreement.
9. [The signature of the Agreement by [●] legally and validly binds the Central Bank of [●].
10. The choice of public international law as the governing law for the Agreement is a valid choice of law binding on the Beneficiary Member State and the Central Bank of [●] in accordance with [●] law.
11. The dispute resolution provisions contained in the Agreement are valid and effective and are binding on the Beneficiary Member State and the Central Bank.
12. The Agreement and the MoU as executed comply with all domestic constitutional requirements for the Agreement and the MoU to be operative as a matter of [●] law and binding on the Beneficiary Member State and the Central Bank of [●].
13. The Agreement and the MoU are fully valid and have been properly ratified in accordance with the provisions of the [●] Constitution.
14. [The Courts of the Beneficiary Member State retain jurisdiction to decide on whether individual future legislative measures passed with a view to compliance with the MoU are themselves compatible with the Constitution of the Beneficiary Member State and international law binding the Beneficiary Member State. However, this does not in any way detract from the opinions expressed in this opinion regarding the validity, binding nature, enforceability and compatibility with the Constitution of (i) the Agreement and (ii) the MoU.]
15. In conclusion, the Agreement has been duly executed on behalf of the Beneficiary Member State and the Central Bank of [●] and all the obligations of the Beneficiary Member State and the Central Bank of [●] in relation to the Agreement are valid, binding and enforceable in accordance with their terms and nothing further is required to give effect to the same.

Part II

[Form of Legal Opinion for Guarantor]

(to be issued on official letterhead of the counsel to
the *[insert name of national financial institution
recapitalisation fund]*)

[place, date]

To: ESM
43, avenue John F. Kennedy
L-1855 Luxembourg
Attention: Chief Financial Officer

Re: EUR [●] Financial Assistance Facility Agreement between European Stability Mechanism (as ESM), [●] (as Beneficiary Member State), the *[insert name of national financial institution recapitalisation fund]* (the "Fund") as guarantor and the Bank of [●] signed on [●]

Dear Sirs,

In my capacity as special counsel to the *[insert name of national financial institution recapitalisation fund]* specifically in connection with its entry into the Agreement (as defined below) as Guarantor (as defined below), I refer to the above referenced Financial Assistance Facility Agreement and all its Schedules which constitute an integral part thereof (hereinafter together referred to as the "**Agreement**") entered into between the European Stability Mechanism (hereinafter referred to as "**ESM**"), [●] (hereinafter referred to as the "**Beneficiary Member State**"), the *[insert name of national financial institution recapitalisation fund]* as guarantor (hereinafter referred to as the "**Guarantor**") and Central Bank on *[insert date]*. I also refer to the Memorandum of Understanding signed on *[insert date]* [and its subsequent updates the most recent of which was signed on [●]] between the Commission, the Beneficiary Member State and the Central Bank (hereinafter referred to as the "**MoU**").

I warrant that I am fully competent to issue this legal opinion in connection with the Agreement on behalf of the Guarantor.

I have examined originals or copies of the executed versions of the Agreement and of the MoU. I have also examined the relevant provisions of national and international law applicable to the Guarantor, the powers of signatories and such other documents as I have deemed necessary or appropriate. Furthermore, I have reviewed such matters of law

as I have considered relevant to the opinion expressed herein.

I have assumed (i) the genuineness of all signatures (except those on behalf of the Guarantor) and the conformity of all copies to originals, (ii) the capacity and power to enter into the Agreement of, and their valid authorisation and signing by, each Party other than the Guarantor and (iii) the validity, binding effect and enforceability of the Agreement on each Party under the laws of [●].

Terms used and not defined in this opinion shall have the meaning set out in the Agreement and in the MoU.

This opinion is limited to [●] law as it stands at the date of this opinion and no opinion is expressed as to the laws of any other jurisdiction.

Subject to the foregoing, I am of the opinion that:

1. With respect to the laws, regulations and legally binding decisions currently in force in [●], the Guarantor is by the execution of the Agreement by [●], validly and irrevocably committed to fulfil all of its obligations under it.
2. The Guarantor's execution, delivery and performance of the Agreement: (i) has been duly authorised by all necessary consents, actions, approvals and authorisations; and (ii) has not and will not violate any applicable law, regulation or ruling of any competent authority or any agreement or treaty binding on it or any of its agencies.
3. The representations and warranties given by the Guarantor in the Agreement are true and accurate.
4. The Agreement is in proper legal form under [●] law for enforcement against the Guarantor. The enforcement of the Agreement would not be contrary to mandatory provisions of [●] law, to the *ordre public* of the Beneficiary Member State, to international treaties or to generally accepted principles of international law binding on the Guarantor.
5. The signature of the Agreement by *[name]*, *[signatory on behalf of the Fund]* legally and validly binds the Guarantor.
6. The choice of public international law as the governing law for the Agreement is a valid choice of law binding on the Guarantor in accordance with [●] law.
7. The dispute resolution provisions contained in the Agreement are valid and effective and are binding on the Fund.
8. Neither the Guarantor nor any of its property is immune on the grounds of sovereignty or

otherwise from jurisdiction, attachment – whether before or after judgement or arbitral award– or execution in respect of any action or proceeding relating to the Agreement.

9. The execution of the Agreement has been made upon the provisions of law [●] of the Beneficiary Member State, as currently in effect.
10. In conclusion, the Agreement has been duly executed on behalf of the Guarantor and all the obligations of the Guarantor in relation to the Agreement are valid, binding and enforceable in accordance with their terms and nothing further is required to give effect to the same.

The opinions set out above are subject to the following reservations and qualifications:

- (a) this opinion is subject to all insolvency, bankruptcy, liquidation, reorganisation, moratorium, resolution of credit institutions and other laws affecting the rights of creditors or secured creditors generally;
- (b) [a [●] court if seized to hear a case based on the Agreement may not treat as conclusive those certificates and determinations which the Agreement states are to be so treated; and]
- (c) no opinion is expressed on matters of fact.

[Signatory]

[insert name of national financial institution recapitalisation fund]

Schedule 3
Form of Request for Funds³

[on letterhead of the Beneficiary Member State]

By fax followed by registered mail:

European Stability Mechanism
43, avenue John F. Kennedy
L-1855 Luxembourg

Attention: Chief Financial Officer

Tel: +352 260 962 26
Fax: + 352 260 962 62
SWIFT address: ESMLULL

Copies to:
European Commission
[Insert address]
Fax: [●]

European Central Bank
[Insert address]
Fax: [●]

Central Bank of [●]
[Insert address]
Fax: [●]

[Fund]
[Insert address]
Fax: [●]

Subject: EUR [●] Financial Assistance Facility Agreement - Request for Funds for the Tranche of EUR [●]

Dear Sirs,

We refer to the Financial Assistance Facility Agreement made between the European Stability Mechanism ("ESM") as ESM, the [●] as Beneficiary Member State, [and] the Central Bank of [●] [and the Fund] signed on [●], to the General Terms and the Facility Specific Terms incorporated therein (together, the "**Agreement**"). Terms defined in the Agreement shall have the same meaning herein.

1. We hereby irrevocably request that a Tranche of the [●] Facility be disbursed under and in accordance with the Agreement upon the following terms:
 - (a) the aggregate of the Financial Assistance Amounts of the Financial Assistance to

³ Note: This form is subject to being amended or supplemented to the satisfaction of ESM during the preparation of each Financial Assistance Facility Agreement to take into account the provisions of each Financial Assistance Facility Agreement and the Facilities provided thereunder.

be made in respect of the Tranche shall be EUR [●], which may be disbursed in one or more Disbursements within the Availability Period];

- (b) the latest of the Disbursement Date(s) of [any Disbursement /the Financial Assistance Amount] to be provided under this Tranche shall be [●];
- (c) [we acknowledge that the Financial Assistance Amounts [will/may] be made available by delivery of ESM Debt Securities;]
- (d) [the proceeds of the Financial Assistance shall be used by the Fund to subscribe Bank Capital Instruments in the following credit institutions / financial institutions / AMCs in accordance with the terms of the MoU and the Financial Assistance Facility Agreement as set out in the table below:

Institution	Category of Bank Capital Instruments	Amount (EUR)	Date of Subscription

] ⁴; and

- (e) [we confirm that the Commission has authorised the subscription of the above mentioned Bank Capital Instruments by the Fund in compliance with the State-Aid regime.]
2. We acknowledge and agree that ESM may make use of the Diversified Funding Strategy.
 3. We acknowledge and agree that the provision of any Financial Assistance made available shall be in accordance with and subject to:
 - (a) the issue by ESM of an Acceptance Notice, our acknowledgement of the terms set out therein and, in due course, the issue by ESM of a Confirmation Notice;
 - (b) the non-occurrence of a Market Disruption Event or an Event of Default; and
 - (c) the conditions precedent to the [●] Facility being satisfied.
 4. We irrevocably undertake to pay any fees, costs or expenses including in particular any Issuance Costs, breakage or termination costs

⁴ Paragraphs (c), (d) and (e) may be included according to the nature of the Disbursement and whether the Disbursement is being used for Financial Institution Recapitalisation.

and Cost of Carry incurred in respect of any Funding Instruments or hedging contract which ESM may have undertaken (including in relation to amounts raised to fund the Liquidity Buffer, financings and/or Pre-Funding Operations) regardless of whether the provision of the relevant Financial Assistance or any disbursement under the [●] Facility takes place.

5. We confirm that:

- (a) The list of authorised signatories sent on behalf of the Beneficiary Member State by the Minister of Finance on [●] remains valid and applicable.
- (b) No event has occurred that would render incorrect any statement made in the legal opinion dated [●] issued by [●] dated [●].
- (c) No event or circumstance has occurred which would permit ESM to declare that an Event of Default has occurred.
- (d) [The proceeds of the Tranche will be used to finance [the recapitalisation of a financial institution]/[the capitalisation of AMC(s)].].

Yours faithfully,

[●]

Represented by: [●]

Schedule 4
Form of Acceptance Notice⁵

EUROPEAN STABILITY MECHANISM

By fax followed by registered mail:

[Insert Beneficiary Member State's contact details]

Copies to:

European Commission

[Insert address]

Fax: [●]

European Central Bank

[Insert address]

Fax: [●]

Central Bank of [●]

[Insert address]

Fax: [●]

[Fund]

[Insert address]

Fax: [●]

Subject: EUR [●] Financial Assistance Facility Agreement - Acceptance Notice for the [Tranche/Disbursement] of EUR [●]

Dear Sirs,

We refer to: (i) the Financial Assistance Facility Agreement between the European Stability Mechanism ("ESM") as ESM, the [●] as Beneficiary Member State, [the [●] as Fund] and the Central Bank of [●] signed on [date] and to the General Terms and Facility Specific Terms incorporated therein (together, the "Agreement"); and (ii) the Request for Funds notified to ESM by the Beneficiary Member State on [date]. Terms defined in the Agreement shall have the same meaning herein.

1. We hereby confirm the provisional financial terms applicable to the [Tranche/Disbursement] requested by the Beneficiary Member State in the above Request for Funds:
 - (a) the principal amount of Financial Assistance to be provided under the [Tranche/Disbursement] is up to EUR [●]; and

⁵ Note: This form is subject to being amended or supplemented to the satisfaction of ESM during the preparation of each Financial Assistance Facility Agreement to take into account the provisions of each Financial Assistance Facility Agreement and the Facilities provided thereunder.

- (b) the latest of the Disbursement Date(s) of all Financial Assistance to be made under this [Tranche] shall be on or prior to [●].

2. [We acknowledge that the proceeds of the [Tranche/Disbursement] will be used to finance [the recapitalisation of a financial institution]/[the capitalisation of AMC(s)]. **[Details]**.
3. By signing the acknowledgement of this Acceptance Notice, the Beneficiary Member State expressly acknowledges and agrees that ESM may, at its discretion, enter into any Funding Instrument that it considers appropriate in accordance with the Diversified Funding Strategy. This authorisation to enter into Funding Instruments and the acceptance by the Beneficiary Member State of ESM's right, at its discretion, to enter into any Funding Instrument that it considers appropriate in accordance with the Diversified Funding Strategy is irrevocable until the final maturity of the latest Disbursement under this Tranche.
4. By acknowledging the terms of this Acceptance Notice, the Beneficiary Member State shall be deemed to have accepted in advance the terms of the Financial Assistance set out in each Confirmation Notice relating thereto. The Beneficiary Member State shall bear its share of the allocation of all costs incurred by ESM in relation to the financing (including any financing costs, margin, Negative Carry, losses, costs, hedging costs or other fees or expenses).
5. This Acceptance Notice is subject to ESM having obtained funds in the international capital or loan markets or from the Liquidity Buffer on terms and conditions that are acceptable to it and which are consistent with the terms indicated in this Acceptance Notice and the non-occurrence of a Market Disruption Event, an Event of Default. If ESM cannot obtain these terms or is subject to a Market Disruption Event then ESM shall not be under any obligation to deliver the funds by way of provision of Financial Assistance in relation to the [Tranche/Disbursement] and shall notify the Beneficiary Member State of such circumstances in writing and as from the date of receipt of such notice the Beneficiary Member State is no longer bound by the Request for Funds for the provision of any further Financial Assistance in respect of such [Tranche/Disbursement].
6. [In consideration of ESM agreeing to issue this Acceptance Notice and to provide the [Tranche/Disbursement(s)] requested in the

Request for Funds it is agreed and accepted as follows:⁶

- (a) ESM shall discharge its obligation to provide the Financial Assistance requested in the Request for Funds by delivering to the Fund (if applicable) (on behalf of and as requested by the Beneficiary Member State) EUR [●] of ESM Debt Securities [Series [●]] in an aggregate nominal principal amount which (subject to any adjustment for rounding) is equal to the aggregate principal amount requested in the Request for Funds and for all the purposes of the Agreement, including calculation of interest and repayment, the amount outstanding in respect of the Financial Assistance requested in the Request for Funds shall be determined by reference to the aggregate principal amount of such Financial Assistance and shall not be affected by any change in the market value of the ESM Debt Securities;
- (b) the Beneficiary Member State shall use the ESM Debt Securities or cash disbursements to provide financing to the Fund for the purpose of the recapitalisation, resolution, and/or the participation in liability management exercises of credit institutions and the Fund shall use such ESM Debt Securities exclusively as the consideration for the subscription of or pre-subscription of Bank Capital Instruments in such credit institutions in accordance with the MoU and the Financial Assistance Facility Agreement or as security for such other arrangements as are approved in advance by ESM;
- (c) at the written request of the Beneficiary Member State ESM may discharge its obligations to make disbursements by the payment of Financial Assistance Amounts or delivery of the requisite amount of ESM Debt Securities to the Fund as agent of the Beneficiary Member State;
- (d) the Fund shall retain all amounts or ESM Debt Securities distributed directly or indirectly to the Fund under the

Financial Institution Recapitalisation Facility and not transfer such amounts or ESM Debt Securities to a financial institution until ESM and the Commission (in liaison with the ECB) consent and approve such transfer on the basis of a report by the Commission on the recapitalisation programme for the relevant financial institution and on the nature and terms of the Financial Institution Recapitalisation Instruments of such financial institution which will be acquired;

- (e) the Fund shall, upon request of ESM and, in accordance with the undertakings in the General Terms, grant valid first ranking security over all their rights under the undertakings they receive from the credit institutions as described in sub-paragraphs 6(c) and 6(d) above as well as in any Bank Capital Instruments which the Fund acquires in the relevant Beneficiary Member State credit institutions or AMCs;
- (f) [any ESM Debt Securities which are not used by the Fund to subscribe for capital instruments in credit institutions in accordance with the MoU and the Financial Assistance Facility Agreement on or by [●] shall be re-delivered to ESM and this shall result in a reduction in the outstanding principal amount of the Financial Assistance Amount by an amount equal to the nominal principal amount of such ESM Debt Securities. For the avoidance of doubt, the Financial Assistance Amount corresponding to the reduction of the outstanding principal nominal amount of the Financial Assistance Amount may not be re-borrowed, unless otherwise agreed with ESM (with the approval of the Board of Governors);]
- (g) in the event of any early repayment under the Agreement and this Acceptance Notice in cash, the Beneficiary Member State shall pay on the date of such early repayment all accrued interest and all other amounts due in respect of the amount repaid and shall reimburse all costs, expenses, fees and Loss of Interest incurred and/or payable by ESM as a consequence of the early repayment;
- (h) the Guarantee set out in Clause 14 of the General Terms shall apply to the obligations of the Beneficiary Member State under and in connection with the

⁶ Additional paragraph 6 and the alternative signature block (below) would be included where ESM Debt Securities are being delivered to finance a Financial Institution Recapitalisation. This may need to be adapted if financial assistance is used to capitalise AMCs or to fund bank resolution costs.

Financial Assistance provided as described in the Acceptance Notice (including the terms of this Acceptance Notice).

Please acknowledge your acceptance and agreement to the terms of this Acceptance Notice by signing where indicated below.

Yours faithfully,

EUROPEAN STABILITY MECHANISM

[The terms of this Acceptance Notice are hereby acknowledged by:

[insert name of Beneficiary Member State]

Represented by: [●]

OR

[The terms of this Acceptance Notice are hereby acknowledged, agreed and accepted by:

[insert name of Beneficiary Member State]

Represented by: [●]

CENTRAL BANK OF [●]

Represented by:

[insert name of Fund]

Represented by:⁷

⁷ The second formulation may be used where the Disbursement is by a delivery of ESM Notes or to be used for Financial Institution Recapitalisation.

Schedule 5
Form of Confirmation Notice⁸

EUROPEAN STABILITY MECHANISM

By fax followed by registered mail:

Ministry of Finance
[Street address]
[City]
[Country]
Attn: Mr/Ms [●]

Copies to:

European Commission
[Insert address]
Fax: [●]

European Central Bank
[Insert address]
Fax: [●]

Central Bank of [●]
[Insert address]
Fax: [●]

[Fund]
[Insert address]
Fax: [●]

Subject: EUR [●] Financial Assistance Facility Agreement - Disbursement of the Financial Assistance of EUR [●] under the [Tranche/Disbursement] of EUR [●]

Dear Sirs,

We refer to: (i) the Financial Assistance Facility Agreement between the European Stability Mechanism ("ESM") as ESM, [●] as Beneficiary Member State [and] the Central Bank of [●] [and the Fund] signed on [date] and to the General Terms and the Facility Specific Terms incorporated therein (together, the "**Agreement**"); and (ii) the Request for Funds notified to ESM by the Beneficiary Member State on [date]. Terms defined in the Agreement shall have the same meaning herein.

1. We hereby confirm the definitive financial terms applicable to the Financial Assistance requested by the Beneficiary Member State in the Request for Funds for the above [Tranche/Disbursement]:

⁸ Note: This form is subject to being amended or supplemented to the satisfaction of ESM during the preparation of each Financial Assistance Facility Agreement to take into account the provisions of each Financial Assistance Facility Agreement and the Facilities provided thereunder.

- (a) The Financial Assistance Amount shall be EUR [●].
- (b) The [principal amount of the [Tranche/Financial Assistance Amount] is equal to EUR [●].
- (c) The up-front portion of the Service Fee is EUR [●] which is to be deducted up-front.
- (d) The Disbursement Date in relation to the [Tranche/ Financial Assistance Amount] shall be: [●].
- (e) The Net Disbursement Amount of the Financial Assistance shall be EUR [●].

2. We hereby confirm the definitive financial terms applicable to [the portion no. [●] of] the [Tranche/Disbursement]:

- (a) The Interest Rate on such [Tranche/ Financial Assistance Amount] shall be the ESM Cost of Funding (including [●] basis points per annum in respect of the annual Service Fee) plus the Margin.
- (b) The Term of the Financial Assistance shall be [●] years.
- (c) [The totality of the principal shall be repaid on [●] in one payment]/[The scheduled [interest and] principal repayments in relation to the Financial Assistance shall be as set out in the following amortisation table]:

Payment Date	Principal Repayment ⁹	Total	Outstanding Financial Assistance Amount

- (d) Each payment of principal shall be accompanied by the payment of all interest then due and payable, as invoiced by ESM to the Beneficiary Member State in accordance with Clause 7.1 of the General Terms.

3. [Insert in the case of Back-to-Back Financed Financial Assistance.] [We hereby confirm that in order to finance amounts outstanding under the above Facility, on [date] ESM issued Funding Instruments with the following financial terms:

Principal Amount: [●].
Maturity: [●].
Interest Rate: [●].
Interest Payment Dates: [●].

⁹ Principal repayment in bullet loans will only apply to the last portion of a Tranche.

4. We confirm that the financial terms of these Funding Instruments shall be used in calculating the ESM Cost of Funding under the Facility.]

Please note that ESM and/or the ECB may deem it necessary to contact directly [●] on the further modalities in relation to the disbursement transfer.

Yours faithfully,

EUROPEAN STABILITY MECHANISM

Signed for the purpose of authentication on 29 April 2013 in Luxembourg and on 29 April 2013 in Nicosia.

EUROPEAN STABILITY MECHANISM

Represented by Klaus Regling,
Managing Director

REPUBLIC OF CYPRUS

Represented by Harris Georgiades,
Minister of Finance

CENTRAL BANK OF CYPRUS

Represented by Panicos O. Demetriades,
Governor of Central Bank of Cyprus

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INTRODUCTORY PROVISIONS

1. Each Financial Assistance Facility Agreement entered into by ESM shall specify which of the Facility Specific Terms shall be applicable to such Financial Assistance Facility Agreement and shall form an integral part of the Agreement.
2. The applicable Facility Specific Terms shall vary, supplement or replace the terms and conditions set out in the General Terms.
3. The applicable Facility Specific Terms may be varied, supplemented or replaced by specific terms and conditions which are set out in the Financial Assistance Facility Agreement.
4. In case of any inconsistency or conflict:
 - (a) the terms and conditions set out in a Financial Assistance Facility Agreement shall prevail over the terms and conditions set out in the General Terms and any applicable Facility Specific Terms; and
 - (b) the terms and conditions set out in any applicable Facility Specific Terms shall prevail over the terms and conditions set out in the General Terms.
5. From time to time each Financial Assistance Facility Agreement may be amended to add additional Facilities or to cancel or to vary existing Facilities and accordingly to up-date which Facility Specific Terms and other terms and conditions apply to such Financial Assistance Facility Agreement and each Facility.
6. If the Board of Directors of ESM adopts new Facility Specific Terms or adopts any amendments to these terms these shall not be incorporated automatically into existing Financial Assistance Facility Agreements. If ESM and each of the Parties to the Financial Assistance Facility Agreement intend to incorporate into an existing Financial Assistance Facility Agreement the new or amended Facility Specific Terms this shall be effected by an amendment in writing to the relevant Financial Assistance Facility Agreement entered into pursuant to Clause 4 of the Financial Assistance Facility Agreement (following the receipt of all approvals required under the ESM Treaty to authorise such amendment).

Section 1

Loan Facility: Facility Specific Terms

1. Definitions and Interpretation

Clause 2 (*Definitions and Interpretation*) of the General Terms shall apply to this Loan Facility.

2. The Loan Facility

- 2.1 This Loan Facility is subject to the terms and conditions of the General Terms as varied, supplemented or replaced by these Facility Specific Terms.
- 2.2 The aggregate principal amount of the Financial Assistance Amounts available under this Loan Facility shall not exceed the Aggregate Loan Facility Amount.
- 2.3 The Availability Period in respect of this Loan Facility shall commence on (and include) the date on which these Facility Specific Terms enter into force in accordance with Clause 3 (Entry into force and Conditions Precedent) of these Facility Specific Terms and shall expire on (and include) the date specified for that purpose in the Financial Assistance Facility Agreement.
- 2.4 The Average Maturity of the Financial Assistance made under this Loan Facility shall not exceed the Maximum Average Maturity specified for this Loan Facility.

3. Entry into force and Conditions Precedent

This Loan Facility shall enter into force when the conditions in Clause 4.1 of the General Terms are satisfied and when the following additional conditions are satisfied:

- 3.1 ESM has received a legal opinion satisfactory to it given by the Legal Officer of the Beneficiary Member State in respect of these Facility Specific Terms and in the form set out in Part 1 of Schedule 2 (*Form of Legal Opinion*) of the General Terms. Such legal opinion shall be dated not later than the date of the first Request for Funds made under this Loan Facility;
- 3.2 following completion of the procedures in Articles 13(1) to (4) of the ESM Treaty, the Board of Directors has approved these Facility Specific Terms and any provisions relating thereto in the Financial Assistance Facility Agreement; and
- 3.3 the Financial Assistance Facility Agreement states that these Facility Specific Terms are applicable.

4. Requests, Disbursements and Conditions to Disbursements

Clause 5 (*Requests, Disbursements and Conditions to Disbursements*) of the General Terms shall apply to this Loan Facility.

5. Representations, Warranties and Undertakings

Clause 6 (*Representations, Warranties and Undertakings*) of the General Terms shall apply to this Loan Facility.

6. Interest, Costs, Fees and Expenses

Clause 7 (*Interest, Costs, Fees and Expenses*) of the General Terms shall apply to this Loan Facility.

7. Repayment, Early Repayment, Mandatory Repayment and Cancellation

Clause 8 (*Repayment, Early Repayment, Mandatory Repayment and Cancellation*) of the General Terms shall apply to this Loan Facility.

8. Payments

Clause 9 (*Payments*) of the General Terms shall apply to this Loan Facility.

9. Events of Default

Clause 10 (*Events of Default*) of the General Terms shall apply to this Loan Facility.

10. Other Provisions

Clauses 11 (*Information Undertakings*), 12 (*Undertakings relating to Inspections, Fraud Prevention and Audits*), 13 (*Notices*), 15 (*Miscellaneous*) and 16 (*Governing Law and Jurisdiction*) of the General Terms shall apply to this Loan Facility.

Section 2

**Precautionary Conditioned Credit Line:
Facility Specific Terms**

1. Definitions and Interpretation

Clause 2 (*Definitions and Interpretation*) of the General Terms shall apply to this PCCL Facility.

2. The PCCL Facility

2.1 This PCCL Facility is subject to the terms and conditions of the General Terms as varied, supplemented or replaced by these Facility Specific Terms.

2.2 The aggregate principal amount of the Financial Assistance Amounts available under this PCCL Facility shall not exceed the Aggregate PCCL Facility Amount.

2.3 The Availability Period in respect of this PCCL Facility shall commence on (and include) the date on which these Facility Specific Terms enter into force in accordance with Clause 3 (*Entry into force and Conditions Precedent*) of these Facility Specific Terms and shall expire on the first anniversary of the PCCL Facility coming into force, provided that the Availability Period may be renewed with the agreement of ESM and the Beneficiary Member State for up to two (2) periods of six (6) months each.

2.4 The Maturity of the Financial Assistance made under this PCCL Facility shall not exceed the Maximum Maturity specified for this PCCL Facility.

2.5 The maximum amount which may be demanded in a Request for Funds under this PCCL Facility shall not exceed the Maximum PCCL Disbursement Amount. Any limits on the number of Requests for Funds per month or three-month period shall be specified in the Financial Assistance Facility Agreement.

3. Entry into force and Conditions Precedent

The PCCL Facility shall enter into force when the conditions in Clause 4.1 of the General Terms are satisfied provided that the Beneficiary Member State satisfies at such time the eligibility criteria for a PCCL Facility set out in the ESM Guideline on Precautionary Financial Assistance and when the following additional conditions are satisfied:

3.1 ESM has received a legal opinion satisfactory to it given by the Legal Officer of the Beneficiary Member State in respect of these Facility Specific Terms and in the form set out in Part 1 of Schedule 2 (*Form of Legal Opinion*) of the General Terms. Such legal opinion shall be dated not later than the date of the first Request for Funds made under this PCCL Facility;

3.2 following completion of the procedures in Articles 13(1) to (4) of the ESM Treaty, the Board of Directors has approved these Facility Specific Terms and any provisions relating thereto in the Financial Assistance Facility Agreement; and

3.3 the Financial Assistance Facility Agreement states that these Facility Specific Terms are applicable.

4. Requests, Disbursements and Conditions to Disbursements

4.1 Clauses 5.1 and 5.2 of the General Terms shall apply to Requests and Disbursements under this PCCL Facility but provided that:

- (a) each Request for Funds shall be in respect of an individual Disbursement;
- (b) unless the Financial Assistance Facility Agreement otherwise provides, if the amount of Financial Assistance demanded in a Request for Funds is equal to or below EUR 3,000,000,000 (three billion euros), the relevant Request for Funds shall be sent to ESM at least five (5) Business Days prior to the relevant Disbursement Date and, if the amount of Financial Assistance demanded in a Request for Funds exceeds EUR 3,000,000,000 (three billion euros), the relevant Request for Funds shall be sent to ESM at least ten (10) Business Days prior to the relevant Disbursement Date;

4.2 Clause 5.3 of the General Terms shall not apply but the following conditions to Disbursement are applicable:

- (a) ESM shall not make a Disbursement under this PCCL Facility if, on or before the Disbursement Date, it receives from the Commission (i) a report under the enhanced surveillance procedure or (ii) any other notice in writing, which concludes or states that there is non-compliance by the Beneficiary Member State with the terms of the MoU; or
- (b) ESM shall not make a Disbursement under this PCCL Facility if the Board of Governors has decided to suspend or to close the PCCL Facility by reason of (i) non-compliance by the Beneficiary Member State with the terms of the MoU or (ii) the commitments under the MoU having become clearly inadequate to resolve the threat of financial disturbance; or
- (c) if a PCCL Facility has been granted but not drawn, ESM shall not make a Disbursement if, on or prior to the Disbursement Date, the Board of Directors has, following receipt of a proposal by the Managing Director and on the basis of the results of the regular EU multilateral surveillance procedure, decided that this PCCL Facility should not be maintained due to the inadequacy of the PCCL Facility to respond to the

needs of the Beneficiary Member State; and

- (d) if a PCCL Facility has been granted and drawn for the first time, ESM shall not make a subsequent Disbursement if, on or prior to the relevant Disbursement Date, the Board of Directors has, following receipt of a proposal by the Managing Director and based on an assessment by the Commission in liaison with the ECB and the ESAs as needed (and where applicable, the IMF) decided that the PCCL Facility should not be continued due to the inadequacy of the PCCL Facility to respond to the needs of the Beneficiary Member State or because another form of financial assistance is needed.

4.3 Clauses 5.4, 5.5 and 5.6 of the General Terms shall not apply to this PCCL Facility, provided that the Financial Assistance Facility Agreement shall stipulate whether and in what circumstances an Acceptance Notice shall be issued in relation to Requests for Funds under this PCCL Facility.

4.4 Clause 5.7 to 5.12 of the General Terms shall apply to this PCCL Facility, provided for the avoidance of doubt that a Confirmation Notice shall be issued in respect of all Disbursements under this PCCL Facility whether or not an Acceptance Notice is issued.

4.5 This PCCL Facility may only give rise to a Disbursement by way of a PMP Operation if this is expressly stated in the Financial Assistance Facility Agreement.

5. Representations, Warranties and Undertakings

The Representations, Warranties and Undertakings in Clause 6 (*Representations, Warranties and Undertakings*) of the General Terms shall apply to this PCCL Facility.

6. Interest, Costs, Fees and Expenses

Clause 7 (*Interest, Costs, Fees and Expenses*) of the General Terms shall apply to this PCCL Facility.

7. Repayment, Early Repayment, Mandatory Repayment and Cancellation

Clause 8 (*Repayment, Early Repayment, Mandatory Repayment and Cancellation*) of the General Terms shall apply to this PCCL Facility.

8. Payments

Clause 9 (*Payments*) of the General Terms shall apply to this PCCL Facility.

9. Events of Default

Clause 10 (*Events of Default*) of the General Terms shall apply to this PCCL Facility.

10. Information undertakings

(a) Clause 11 (*Information Undertakings*) of the General Terms shall apply to this PCCL Facility.

(b) In addition the Beneficiary Member State shall, on request of the Commission, provide the information requested by the Commission as described in the ESM Guideline on Precautionary Financial Assistance.

11. Other Provisions

Clauses 12 (*Undertakings relating to Inspections, Fraud Prevention and Audits*), 13 (*Notices*), 15 (*Miscellaneous*) and 16 (*Governing Law and Jurisdiction*) of the General Terms shall apply to this PCCL Facility.

Section 3

Enhanced Conditioned Credit Line: Facility Specific Terms

1. Definitions and Interpretation

Clause 2 (*Definitions and Interpretation*) of the General Terms shall apply to this ECCL Facility.

2. The ECCL Facility

- 2.1 This ECCL Facility is subject to the terms and conditions of the General Terms varied, supplemented or replaced by these Facility Specific Terms.
- 2.2 The aggregate principal amount of the Financial Assistance Amounts available under this ECCL Facility shall not exceed the Aggregate ECCL Facility Amount.
- 2.3 The Availability Period in respect of this ECCL Facility shall commence on (and include) the date on which these Facility Specific Terms enter into force in accordance with Clause 3 (*Entry into force and Conditions Precedent*) of these Facility Specific Terms and shall expire on the first anniversary of the ECCL Facility coming into force, provided that the Availability Period may be renewed with the agreement of ESM and the Beneficiary Member State for up to two (2) periods of six (6) months each.
- 2.4 The Maturity of the Financial Assistance made under this ECCL Facility shall not exceed the Maximum Maturity specified for this ECCL Facility.

- 2.5 The maximum amount which may be demanded in a Request for Funds under this ECCL Facility shall not exceed the Maximum ECCL Disbursement Amount. Any limits on the number of Requests for Funds per month or three-month period shall be specified in the Financial Assistance Facility Agreement.

3. Entry into force and Conditions Precedent

This ECCL Facility shall enter into force when the conditions in Clause 4.1 of the General Terms are satisfied provided that the Beneficiary Member State satisfies at such time the eligibility criteria for an ECCL Facility set out in the ESM Guideline on Precautionary Financial Assistance and that the additional conditions set out in Clauses 3 of these Facility Specific Terms are satisfied:

- 3.1 ESM has received a legal opinion satisfactory to it given by the Legal Officer of the Beneficiary Member State in respect of these Facility Specific Terms and in the form set out in Part 1 of Schedule 2 (*Form of Legal Opinion*) of the General Terms. Such legal opinion shall be dated not later than the date of the first Request for Funds made under this ECCL Facility;
 - 3.2 following completion of the procedures in Articles 13(1) to (4) of the ESM Treaty, the Board of Directors has approved these Facility Specific Terms and any provisions relating thereto in the Financial Assistance Facility Agreement; and
 - 3.3 the Financial Assistance Facility Agreement states that these Facility Specific Terms are applicable.
- ##### 4. Requests, Disbursements and Conditions to Disbursements
- 4.1 Clauses 5.1 and 5.2 of the General Terms shall apply to Requests and Disbursements under this ECCL Facility but provided that:
 - (a) each Request for Funds shall be in respect of an individual Disbursement, and
 - (b) unless the Financial Assistance Facility Agreement otherwise provides, if the amount of Financial Assistance demanded in a Request for Funds is equal to or below EUR 3,000,000,000 (three billion euros), the relevant Request for Funds shall be sent to ESM at least five (5) Business Days prior to the relevant Disbursement Date and, if the amount of Financial Assistance demanded in a Request for Funds exceeds EUR 3,000,000,000 (three

- billion euros), the relevant Request for Funds shall be sent to ESM at least ten (10) Business Days prior to the relevant Disbursement Date;
- 4.2 Clause 5.3 of the General Terms shall not apply but the following conditions to Disbursement are applicable:
- (a) ESM shall not make a Disbursement under this ECCL Facility if on or before the Disbursement Date it receives from the Commission (i) a report under the enhanced surveillance procedure or (ii) any other notice in writing, which concludes or states that there is non-compliance by the Beneficiary Member State with the terms of the MoU; or
 - (b) ESM shall not make a Disbursement under this ECCL Facility if the Board of Governors has decided to suspend or to close the ECCL Facility by reason of (i) non-compliance by the Beneficiary Member State with the terms of the MoU or (ii) the commitments under the MoU having become clearly inadequate to resolve the threat of financial disturbance; or
 - (c) ESM shall not make a Disbursement if, on or prior to the Disbursement Date, the Board of Directors has, following receipt of a proposal by the Managing Director and on the basis of the findings of the Commission following the regular review mission of the Beneficiary Member State which is subject to surveillance, decided that this ECCL Facility should not be maintained due to the inadequacy of the ECCL Facility to respond to the needs of the Beneficiary Member State; and
 - (d) If an ECCL Facility has been granted and drawn for the first time, ESM shall not make a subsequent Disbursement if, on or prior to the relevant Disbursement Date, the Board of Directors has, on the basis of a proposal by the Managing Director and based on an assessment conducted by the Commission in liaison with the ECB and the ESAs as needed (and where applicable, the IMF) decided that this ECCL Facility should not be maintained due to the inadequacy of the ECCL Facility to respond to the needs of the Beneficiary Member State or because another form of financial assistance is needed.
- 4.3 Clauses 5.4, 5.5 and 5.6 of the General Terms shall not apply to this ECCL Facility, provided that the Financial Assistance Facility Agreement shall stipulate whether and in what circumstances an Acceptance Notice shall be issued in relation to Requests for Funds under this ECCL Facility.
- 4.4 Clauses 5.7 to 5.12 of the General Terms shall apply to this ECCL Facility, provided for the avoidance of doubt that a Confirmation Notice shall be issued in respect of all Disbursements under this ECCL Facility whether or not an Acceptance Notice is issued.
- 4.5 This ECCL Facility may only give rise to a Disbursement by way of a PMP Operation if this is expressly stated in the Financial Assistance Facility Agreement.
- 5. Representations, Warranties and Undertakings**
- The Representations, Warranties and Undertakings in Clause 6 (*Representations, Warranties and Undertakings*) of the General Terms shall apply to this ECCL Facility.
- 6. Interest, Costs, Fees and Expenses**
- Clause 7 (*Interest, Costs, Fees and Expenses*) of the General Terms shall apply to this ECCL Facility.
- 7. Repayment, Early Repayment, Mandatory Repayment and Cancellation**
- Clause 8 (*Repayment, Early Repayment, Mandatory Repayment and Cancellation*) of the General Terms shall apply to this ECCL Facility.
- 8. Payments**
- Clause 9 (*Payments*) of the General Terms shall apply to this ECCL Facility.
- 9. Events of Default**
- Clause 10 (*Events of Default*) of the General Terms shall apply to this ECCL Facility.
- 10. Information Undertakings**
- 10.1 Clause 11 (*Information Undertakings*) of the General Terms shall apply to this ECCL Facility.
- 10.2 In addition, the Beneficiary Member State shall, on request of the Commission, provide the information requested by the Commission as described in the ESM Guideline on Precautionary Financial Assistance.
- 11. Other Provisions**
- Clauses 12 (*Undertakings relating to Inspections, Fraud Prevention and Audits*), 13 (*Notices*), 15 (*Miscellaneous*) and 16 (*Governing Law and Jurisdiction*) of the

General Terms shall apply to this ECCL Facility.

Section 4

Financial Institution Recapitalisation Facility: Facility Specific Terms

1. Definitions and Interpretation

Clause 2 (*Definitions and Interpretation*) of the General Terms shall apply to this Financial Institution Recapitalisation Facility.

2. The Financial Institution Recapitalisation Facility

- 2.1 This Facility permits the Beneficiary Member State to finance the recapitalisation of certain financial institutions and/or the capitalisation of AMCs or to cover bank resolution costs, subject to and in accordance with the terms of the MoU and the Financial Assistance Facility Agreement, and provides, in particular, that the proceeds of this Financial Institution Recapitalisation Facility shall be used by the Beneficiary Member State to provide finance to the Fund to permit the Fund (i) to subscribe or pre-subscribe for Bank Capital Instruments issued by existing financial institutions and/or (ii) to subscribe or pre-subscribe for Bank Capital Instruments issued by AMCs which acquire the assets of viable or non-viable institutions under a bank resolution programme and/or (iii) to cover the resolution costs of financial institutions, subject to and in accordance with the terms of the MoU and the Financial Assistance Facility Agreement, (each of these operations being a "**Recapitalisation**" for the purposes of the Financial Assistance Facility Agreement and this Financial Institution Recapitalisation Facility). The Beneficiary Member State and the Fund shall not use such proceeds for any other purpose.
- 2.2 This Financial Institution Recapitalisation Facility is subject to any additional terms set out in an Acceptance Notice.
- 2.3 The aggregate principal amount of the Financial Assistance Amounts available under this Financial Institution Recapitalisation Facility shall not exceed the Aggregate Financial Institution Recapitalisation Facility Amount. ESM may discharge its obligation to make the Financial Assistance Amount available by delivery of ESM Debt Securities which have an aggregate nominal principal amount which (subject to adjustment for rounding) is equal to the relevant Financial Assistance Amount. Thereafter, and for all purposes of this Agreement, including calculation and payment of interest and any repayment, the amount outstanding shall be

determined by reference to the Financial Assistance Amount and shall not be affected by any change in the market value of such ESM Debt Securities.

- 2.4 The Availability Period in respect of this Financial Institution Recapitalisation Facility shall commence on (and include) the date on which these Facility Specific Terms enter into force in accordance with Clause 3 (*Entry into Force and Conditions Precedent*) and shall expire on (and include) the date specified in the Financial Assistance Facility Agreement. Any amounts not disbursed under this Financial Institution Recapitalisation Facility on or prior to the last day of the Availability Period shall be immediately cancelled.
- 2.5 The Average Maturity of the Financial Assistance made under this Financial Institution Recapitalisation Facility shall not exceed the Maximum Average Maturity specified for this Financial Institution Recapitalisation Facility and the maximum maturity of any individual disbursement of Financial Assistance shall not exceed the Maximum Maturity specified for this Financial Institution Recapitalisation Facility.
- 2.6 The Beneficiary Member State shall apply all amounts and/or ESM Debt Securities provided to it under this Financial Institution Recapitalisation Facility in conformity with the MoU and its obligations under this Agreement, in order to finance Recapitalisations.
- #### 3. Entry into force and Conditions Precedent
- This Financial Institution Recapitalisation Facility shall enter into force when the conditions in Clause 4.1 of the General Terms are satisfied and when the following additional conditions are satisfied:
- 3.1 ESM has received legal opinions satisfactory to it given by the Legal Officer of the Beneficiary Member State and special legal counsel to the Fund in respect of these Facility Specific Terms substantially in the forms set out in Schedule 2 of the General Terms. Such legal opinions shall be dated not later than the date of the first Request for Funds made under this Financial Institution Recapitalisation Facility;
- 3.2 following completion of the procedures in Articles 13(1) to (4) of the ESM Treaty, the Board of Directors has approved these Facility Specific Terms and any provisions relating thereto in the Financial Assistance Facility Agreement; and

3.3 the Financial Assistance Facility Agreement states that these Facility Specific Terms are applicable.

4. Requests, Disbursements And Conditions To Disbursements

Clause 5 (*Requests, Disbursements and Conditions to Disbursement*) of the General Terms shall apply to each Request for Funds and each Tranche or Disbursement under this Financial Institution Recapitalisation Loan Facility, **provided that:**

4.1 in considering whether to approve Tranches or Disbursements, the Board of Directors and ESM shall take into account all factors they consider relevant including fulfilment of prior actions (if any) they deem appropriate and consideration of a report to be provided by the Commission, in liaison with the ECB and, if appropriate, the single supervisory authority or the relevant ESAs (as the case may be) which confirms that:

- (a) no, or no sufficient private sector solution is feasible in relation to the relevant financial institutions and the Beneficiary Member State does not have adequate financial resources by itself to recapitalise such financial institution(s);
- (b) the financial institution(s) concerned are of systemic relevance or pose a serious threat to the financial stability of the euro area as a whole and of its Member States;
- (c) a recapitalisation financed in part or in whole by ESM is necessary in the light of the degree of distress of the financial institutions concerned and urgency in providing the support; and
- (d) the funds available to the Fund have been fully utilised by the Fund by the time of each disbursement under this Agreement;

4.2 the Beneficiary Member State has confirmed that the proposed recapitalisation complies with any applicable national state aid rules and legal restrictions;

4.3 the Commission has assessed and confirmed that the proposed recapitalisation complies with applicable EU State aid rules, it is satisfied with the bank stress tests for the financial institution(s) indicated in the relevant Request for Funds being recapitalised and it has approved the relevant restructuring or resolution plan;

4.4 each relevant financial institution which will benefit from a recapitalisation has undertaken

to the Beneficiary Member State, the Fund, ESM and the Commission in a legally binding manner to implement the recapitalisation plan applicable to it; and

4.5 on each Disbursement Date ESM may make the Financial Assistance available to the Beneficiary Member State by delivering cash or ESM Debt Securities in an aggregate nominal principal amount which (after any adjustment for rounding) is equal to the Financial Assistance Amount to the securities account of the Beneficiary Member State or its agent, the Fund, the details of which securities account have been advised in writing by the Beneficiary Member State or the Fund to ESM at least two (2) Business Days prior to the Disbursement Date. The Issuance Costs shall be paid by ESM out of the sums retained, where possible, for this purpose, or invoiced separately; any additional costs incurred may be recovered under Clause 7.6 of the General Terms.

5. Representations, Warranties and Undertakings

Clause 6 (*Representations, Warranties and Undertakings*) of the General Terms shall apply to this Financial Institution Recapitalisation Facility provided that, in addition, the Beneficiary Member State undertakes that:

5.1 in the event that a disbursement of Financial Assistance is disbursed directly to the Fund (at the request of the Beneficiary Member State) or the Beneficiary Member State uses a disbursement of Financial Assistance to provide financing to the Fund, then, during the period when Financial Assistance under this Financial Institution Recapitalisation Facility is outstanding and has not been reimbursed, the Beneficiary Member State shall procure and the Fund shall permit ESM to appoint an observer to observe the discussions of the board of directors of the Fund on agenda items which relate to the financial institutions or AMCs which are the subject of a Recapitalisation financed with proceeds of Financial Assistance made available under this Financial Institution Recapitalisation Facility; provided that, such observer shall enter into a confidentiality undertaking with the Fund in the customary form (if any) required by the Fund; and

5.2 the Beneficiary Member State and the Fund shall comply with any specific covenants and undertakings set out in each Acceptance Notice issued in relation to this Financial Institution Recapitalisation Facility.

6. Interest, Costs, Fees and Expenses

Clause 7 (*Interests, Costs, Fees and Expenses*) of the General Terms shall apply to this Financial Institution Recapitalisation Facility.

7. Repayment, Early Repayment, Mandatory Repayment and Cancellation

7.1 Clause 8 (*Repayment, Early Repayment, Mandatory Repayment and Cancellation*) of the General Terms shall apply to this Financial Institution Recapitalisation Facility, in particular Clause 8.8 and Clauses 8.8.1, 8.8.2, 8.8.3 and 8.8.4.

7.2 In addition to the repayment obligations set out in Clause 8 (*Repayment, Early Repayment, Mandatory Repayment and Cancellation*) of the General Terms, if at the end of the Availability Period or such earlier date specified in the Financial Assistance Facility Agreement the Beneficiary Member State or the Fund has received an amount in euros or received delivery of ESM Debt Securities as Financial Assistance under the Financial Assistance Facility Agreement and these Facility Specific Terms and such amounts or such ESM Debt Securities have not at that time been used to subscribe or to pre-subscribe for Bank Capital Instruments in financial institutions or AMCs or to cover resolution costs of financial institutions as contemplated by the Financial Assistance Facility Agreement and the MoU then, upon written notice by ESM, the Beneficiary Member State shall repay such Financial Assistance together with all accrued interest on the reimbursed amount within ten (10) Business Days of such notice on the terms specified in such notice and in accordance with the provisions of Clause 9.3.1 of the General Terms. Such reimbursement shall constitute a scheduled repayment and not a voluntary or mandatory pre-payment.

8. Payments

Clause 9 (*Payments*) of the General Terms shall apply to this Financial Institution Recapitalisation Facility.

9. Events of Default

Clause 10 (*Events of Default*) of the General Terms shall apply to this Financial Institution Recapitalisation Facility.

10. Other Provisions

Clauses 11 (*Information Undertakings*), 12 (*Undertakings relating to Inspections, Fraud Prevention and Audits*), 13 (*Notices*), 15 (*Miscellaneous*) and 16 (*Governing Law and Jurisdiction*) of the General Terms shall apply

to this Financial Institution Recapitalisation Facility.

Section 5

Primary Market Bond Purchase Facility: Facility Specific Terms

1. Definitions and Interpretation

Clause 2 (*Definitions and Interpretation*) of the General Terms shall apply to this PMP Facility.

2. The Primary Market Bond Purchase Facility

2.1 This PMP Facility is subject to the terms and conditions of the General Terms as varied or supplemented by these Facility Specific Terms and any additional terms set out in an Acceptance Notice.

2.2 The maximum aggregate principal amount which at any time is outstanding under this PMP Facility shall not exceed the Maximum PMP Amount.

2.3 The Availability Period for this PMP Facility shall commence on (and include) the date on which these Facility Specific Terms enter into force in accordance with Clause 3 (*Entry into Force and Conditions Precedent*) and shall expire on (and include) the date specified in the Financial Assistance Facility Agreement. Any amounts not disbursed under this PMP Facility on or prior to the last day of the Availability Period shall be immediately cancelled.

2.4 The Maturity of any Purchased Bonds acquired under this PMP Facility shall not exceed the Maximum Maturity.

2.5 Under this PMP Facility, ESM may provide Financial Assistance to the Beneficiary Member State by subscribing for Series of Bonds issued by the Beneficiary Member State in the primary market subject to compliance with the ESM Guideline on the Primary Market Support Facility.

2.6 In respect of each PMP Operation the Beneficiary Member State shall be liable to reimburse ESM in relation to each PMP Operation a principal amount (if it is a positive amount) equal to:

- (a) the aggregate purchase price paid by ESM in respect of the Purchased Bonds; less
- (b) the principal amount received or realised by ESM in respect of the Purchased Bonds at maturity or on re-sale of the Purchased Bonds.

Such amount shall be treated as if it were a loan and the principal amount due by the Beneficiary Member State to ESM in respect thereof shall be determined in accordance with Clause 8 and shall be due and payable on the date determined under Clause 8.3(e) of the Facility Specific Term, except to the extent that it can be repaid out of the PMP Reserve Buffer.

- 2.7 ESM shall manage the Purchased Bonds in accordance with the ESM Guideline on the Primary Market Support Facility. ESM shall inform the Beneficiary Member State regarding the management of the Purchased Bonds and the Beneficiary Member State shall have the right to approve the conduct of sales of the Purchased Bonds if these would create any liability for the Beneficiary Member State except in circumstances where ESM would face a significant risk of realising a loss in relation to its holdings of Purchased Bonds of the relevant Beneficiary Member State irrespective of a possible decision to sell them.

3. Entry into force and Conditions Precedent

- 3.1 This PMP Facility shall enter into force when the conditions in Clause 4.1 of the General Terms are satisfied and when the following additional conditions are satisfied:

- (a) ESM has received legal opinions satisfactory to it given by the Legal Officer of the Beneficiary Member State in respect of this PMP Facility and substantially in the form set out in Part 1 of Schedule 2 (*Form of Legal Opinion*) of the General Terms. Such legal opinion shall be dated not later than the date of the first Request for Funds made under this PMP Facility;
- (b) following completion of the procedures in Articles 13(1) to (4) of the ESM Treaty, the Board of Directors has approved these Facility Specific Terms and any provisions relating thereto in the Financial Assistance Facility Agreement; and
- (c) the Financial Assistance Facility Agreement states that these Facility Specific Terms are applicable.

- 3.2 If this PMP Facility is provided in conjunction with a Precautionary Facility, it is an additional condition of the entry into force of this PMP Facility that the Beneficiary Member State satisfies the eligibility criteria for a PCCL Facility or, as the case may be, an ECCL Facility as set out in the ESM Guideline on Precautionary Financial Assistance.

4. PMP Operations and Conditions to Disbursement

4.1 *In the case of a Beneficiary Member State which has a Loan Facility with ESM:*

- (a) Clauses 5 (*Requests, Disbursements and Conditions of Disbursement*) of the General Terms shall not apply to this PMP Facility.
- (b) Subject to the terms and conditions of these Facility Specific Terms, the Financial Assistance Facility Agreement and the MoU, the Beneficiary Member State may, after consultation with ESM, request a PMP Operation or Tranche of PMP Operations under the PMP Facility to be made by delivery to ESM of a duly completed Request for Funds.
- (c) A Request for Funds under this PMP Facility will not be regarded as having been duly completed unless it at least specifies:
 - (i) the PMP Amount to be made available under the relevant PMP Operation or Tranche of PMP Operations;
 - (ii) the proposed last Disbursement Date of the relevant PMP Operation or Tranche of PMP Operations; and
 - (iii) the ratio of (i) the PMP Principal Amount over (ii) the aggregate principal amount of each of the underlying Series of Bonds to be issued.

In addition, the Request for Funds is only valid if it complies with the detailed modalities for PMP Operations agreed between ESM and the Beneficiary Member State.

- (d) following a Request for Funds in respect of a PMP Operation or a Tranche of PMP Operations under this PMP Facility from a Beneficiary Member State which has a Loan Facility with ESM, ESM's obligation to enter into any PMP Operation or a Tranche of PMP Operations shall be subject to:
 - (i) the Beneficiary Member State confirming in writing that no event has occurred that would render incorrect any statement made in the legal opinions received by ESM;
 - (ii) the Board of Directors, after considering the most recent periodic assessment of the

- Beneficiary Member State by the Commission (in liaison with the ECB), being satisfied with the compliance by the Beneficiary Member State with the terms of the MoU, including prior actions (if any);
- (iii) The Board of Directors of ESM being satisfied that all other conditions to utilisation of this PMP Facility are satisfied;
 - (iv) The Board of Directors of ESM (after taking into account all factors they consider relevant including those referred to in this Clause 4) have approved the disbursement under these relevant Facility Specific Terms;
 - (v) no material adverse change having occurred since the date of the Financial Assistance Facility Agreement such as would, in the opinion of the Board of Directors of ESM, after consultation with the Beneficiary Member State, be likely to prejudice materially the ability of the Beneficiary Member State to fulfil its payment obligations under the Financial Assistance Facility Agreement and this PMP Facility, including its ability to pay interest and principal under the Series of Bonds and under any amount outstanding under these Facility Specific Terms;
 - (vi) no event of default having occurred under Clause 10 (*Events of Default*) of the General Terms or under these Facility Specific Terms which has not been cured to the satisfaction of ESM;
 - (vii) the PMP Amount in respect of such PMP Operation (when added to the PMP Amount of any other PMP Operation which remains outstanding) does not cause the Maximum PMP Amount to be exceeded;
 - (viii) on the date of the auction or date of pricing of a syndicated issue of a Series of Bonds, the percentage of the final issued amount of such Series of Bonds to be purchased by ESM complies with the limitations set out in the ESM Guideline on Primary Support Facilities;
 - (ix) ESM being satisfied with the conclusions of the market analysis conducted by the Beneficiary Member State and ESM on the effect of an intervention by ESM by way of a PMP Operation and on the implications (in particular, on the secondary market for the securities issued by the Beneficiary Member State) of an intervention by ESM by way of a PMP Operation;
 - (x) on the date of the auction or the date of pricing in the case of a syndicated issue of a Series of Bonds, ESM (after consultation with the Beneficiary Member State) is satisfied with (i) the level of participation of private investors in the primary market for such Series of Bonds, and (ii) the interest rate of the Series of Bonds, when compared to the ESM Cost of Funding;
- (e)
- (i) if the relevant conditions in Clause 4.1(d) of these Facility Specific Terms are satisfied (except for the conditions referred to subparagraphs (vi) to (x) of Clause 4.1(d) that need to be satisfied on the date of the auction or the date of pricing of a syndicated issue of the relevant Series of Bonds), ESM shall send the Beneficiary Member State an Acceptance Notice setting out the provisional terms on which ESM is willing to enter into the PMP Operation.
 - (ii) Following the acknowledgement of an Acceptance Notice by the Beneficiary Member State, the Beneficiary Member State and ESM shall irrevocably be bound by the terms of the Acceptance Notice, subject to however in all cases the non-occurrence of an Event of Default and satisfaction of the conditions set out in subparagraphs (vi) to (x) of Clause 4.1(d) of these Facility Specific Terms on the date of the auction or the date of pricing of a syndicated issue of the relevant Series of Bonds.
 - (iii) In the event that ESM, subject to compliance with the then applicable ESM Borrowing

Guidelines, can only raise funds for the relevant PMP Operation (whether by issuing specific Funding Instruments, obtaining funds in the international capital or loan markets or by making use of the Liquidity Buffer) denominated in a currency other than euros and by entering into related currency hedging arrangements then any additional costs incurred by ESM in connection with currency hedging arrangements shall be borne by the Beneficiary Member State.

(f)

- (i) Where ESM has elected to launch a specific issue of Funding Instruments and, due to prevailing market conditions at the time of launching such an issue of or seeking to enter into such specific Funding Instruments to fund a PMP Operation, ESM is not able to obtain funding for the PMP Operation and cannot finance such PMP Operation from the Liquidity Buffer, then ESM shall not be under any obligation to enter into or complete such PMP Operation.
- (ii) The entry into of any PMP Operation under this PMP Facility shall under no circumstances commit any of the parties to proceed with the making and receiving of any further Financial Assistance or PMP Operation.
- (iii) In connection with any PMP Operation, ESM shall send a Confirmation Notice in respect of such PMP Operation to the Beneficiary Member State.

4.2 In the case of a Beneficiary Member State which has a Precautionary Facility with ESM:

- (a) Clauses 4.1(a), 4.1(b) and 4.1(c) of these Facility Specific Terms shall be applicable.
- (b) Following a Request for Funds in respect of a PMP Operation or a Tranche of PMP Operations under this PMP Facility from a Beneficiary Member State which has a Precautionary Facility with ESM, ESM's obligation to enter into any PMP Operation or a Tranche of PMP Operations shall be subject to:
 - (i) the conditions set out in Clauses 4.1 and 4.2 of the Facility Specific Terms applicable to PCCL Facilities or, as the case may be, ECCL Facilities are satisfied;
 - (ii) the conditions set out in Clauses 4.1(d)(vi) to 4.1(d)(x) of these Facility Specific Terms being satisfied;
- (c)
 - (i) If the conditions in Clause 4.2(b) are satisfied (with the exception of the conditions referred to in Clause 4.2(b)(ii) which need to be satisfied on the date of the auction or the date of pricing of a syndicated issue of the relevant Series of Bonds), ESM shall send the Beneficiary Member State an Acceptance Notice setting out the provisional terms on which ESM is willing to enter into the PMP Operation (x) in connection with the first PMP Operation and (y) in connection with subsequent PMP Operations only if the Financial Assistance Facility Agreement so provides.
 - (ii) Following (x) the acknowledgement of an Acceptance Notice by the Beneficiary Member State (in cases where an Acceptance Notice is provided in accordance with Clause 4.2(c)(i) above) the Beneficiary Member State and ESM shall irrevocably be bound by the terms of the Acceptance Notice and/or (y) satisfaction of the conditions set out in Clause 4.2(b)(i) above if, under the relevant Financial Assistance Facility Agreement, no Acceptance Notice is required to be issued, the Beneficiary Member State and ESM shall be required to enter into the PMP Operation specified in the Request for Funds, subject in all

cases to the non-occurrence of an Event of Default and satisfaction of the conditions set out in 4.2(b)(ii) above on the date of the auction or the date of pricing of a syndicated issue of the relevant Series of Bonds.

(iii) Clause 4.1(e)(iii) shall be applicable.

(d) Clause 4.1(f) shall be applicable.

5. Representations, Warranties and Undertakings

5.1 Clause 6 (*Representations, Warranties and Undertakings*) of the Financial Assistance Facility Agreement shall apply to this PMP Facility.

5.2 In addition the Beneficiary Member State represents and warrants to ESM on the date of the Request for Funds and on the Disbursement Date that:

- (a) the Beneficiary Member State has full power and capacity to create, issue and sell the Series of Bonds and enter into and perform the Note Issuance Documents and the creation, issue and sale of the Series of Bonds will on or prior to the date of issue of such Series of Bonds, be duly approved and authorised by all necessary action;
- (b) each Series of Bonds will, on the date of issue of such Series of Bonds, constitute legal, valid, binding and enforceable obligations of the Beneficiary Member State;
- (c) each Note Issuance Document constitutes legal, valid, binding and enforceable obligations of the Beneficiary Member State;
- (d) the information contained in any Prospectus is true, accurate and not misleading in any material respect; and
- (e) the exemption established by Article 7 of Directive 2003/6 of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) and implemented in the implementing legislation and regulations of the Beneficiary Member State applies to ESM, in particular, in relation to any transactions carried out or entered into by ESM under or in connection with this PMP Facility.

5.3 In addition, the Beneficiary Member State undertakes, until such time as all principal under this PMP Facility has been fully reimbursed and all interest and additional amounts, if any, due under this PMP Facility have been fully paid, that:

- (a) during the Availability Period of this PMP Facility the Commission (in liaison with the ECB) and the IMF shall be permitted to monitor compliance by the Beneficiary Member State with the policy conditionality set out in the MoU and thereafter, the Beneficiary Member State shall permit post-programme surveillance as contemplated by Recital (17) of the ESM Treaty;
- (b) it shall promptly obtain and maintain the admission to listing, trading and quotation of any Purchased Bonds on the Relevant Stock Exchange;
- (c) it shall ensure that each issue of Purchased Bonds is and remains eligible for clearance and settlement through the clearing and settlement system applicable to such series of Purchased Bonds until all amounts in respect of such Purchased Bonds have been paid in full; and
- (d) it shall comply with all applicable laws, regulations, rulings, policies and guidelines (as amended from time to time) of any governmental or regulatory authority or central bank relevant to the issue of Purchased Notes and shall make all filings, disclosures or registrations necessary from time to time to ensure compliance with such laws, regulations, rulings, policies and guidelines.

6. Interest, Costs and Expenses

6.1 In respect of each PMP Outstanding Amount interest shall accrue at a rate equal to the applicable Interest Rate during each Bond Interest Period. Subject to Clause 7 (*Funding Excess, Funding Shortfall and suspension of payment of funding excess*) of these Facility Specific Terms, Clause 7 (*Interest, Costs, Fees and Expenses of the General Terms*) of the General Terms shall apply to this PMP Facility.

6.2 The Beneficiary Member State shall pay ESM interest on Purchased Bonds in accordance with the terms and conditions of such Purchased Bonds.

6.3 The Beneficiary Member State shall bear all costs, charges and expenses, including legal, professional, banking, hedging and/or

exchange charges incurred in connection with the preparation, execution, implementation and termination of a PMP Operation. These costs and expenses to be borne by the Beneficiary Member State include legal costs (such as costs incurred to obtain legal opinions and drafting documentation), rating agency costs, listing costs, travel costs (if applicable), commissions related to the Funding Instruments, fees of service providers and clearance systems, taxes, registration fees and publication costs.

7. Funding Excess, Funding Shortfall and suspension of payment of funding excess

- 7.1 On each Calculation Date when there are PMP Operations outstanding ESM shall calculate in relation to each Bond Interest Payment Date and each PMP Operation (i) the amount of the ESM Interest Amount for the relevant PMP Operation in respect of such Bond Interest Payment Date and (ii) the amount, if any, by which the Bond Interest Amount exceeds such ESM Interest Amount (the "**Funding Excess**") or, as the case may be, the amount, if any, by which the ESM Interest Amount exceeds the Bond Interest Amount (the "**Funding Shortfall**") and shall notify the Beneficiary Member States of these amounts.
- 7.2 In respect of any Funding Excess, ESM agrees that, following calculation and notification of such Funding Excess and receipt by ESM of all interest due to it in respect of the Purchased Bonds on the relevant Bond Interest Payment Date, ESM will credit such amounts to the PMP Reserve Buffer in accordance with the ESM Pricing Policy.
- 7.3 In respect of any Funding Shortfall, the Beneficiary Member State agrees that, following calculation and notification of such Funding Shortfall, (i) ESM may cover such Funding Shortfall by debiting the PMP Reserve Buffer and (ii) if the PMP Reserve Buffer does not then contain sufficient funds to cover the full amount of such Funding Shortfall, any remaining balance shall be paid by the Beneficiary Member State to ESM promptly and in any event within five (5) Business Days of a demand in writing by ESM on or after the relevant Interest Payment Date.

8. Redemption, early redemption, mandatory redemption and cancellation

- 8.1 Clause 8 (*Repayment, Early Repayment, Mandatory Repayment and Cancellation*) of the General Terms shall apply to this PMP Facility.

8.2 The terms as to redemption and early redemption of Purchased Bonds are set out in the Conditions of the Purchased Bonds and are not varied by the terms of this PMP Facility.

8.3 In addition to the repayment obligations set out in the Financial Assistance Facility Agreement, the following provisions apply:

- (a) on each date on which the Beneficiary Member State makes a repayment of principal or redeems in full Purchased Bonds, the PMP Outstanding Amount in respect of the relevant PMP Operation shall be automatically reduced by an amount equal to the principal amount received by ESM in respect of the relevant Purchased Bonds;
- (b) ESM may re-sell any Purchased Bonds prior to their scheduled maturity date in accordance with the ESM Guideline on the Primary Market Support Facility and subject to complying with Clause 2.7 of these Facility Specific Terms;
- (c) if ESM re-sells any Purchased Bonds prior to their scheduled maturity date then the PMP Outstanding Amount in respect of the relevant PMP Operation shall be automatically reduced by an amount equal to the net sales proceeds received by ESM in respect of such Purchased Bonds (excluding any portion of the sales proceeds which relate to accrued interest and net of any commission, fees or costs incurred by ESM in respect of the sale of such Purchased Bonds);
- (d) if the net sales proceeds of Purchased Bonds exceed the PMP Outstanding Amount the excess shall be retained by ESM in accordance with the ESM Pricing Policy;
- (e) if the net sales proceeds of Purchased Bonds or the amount received in respect of Purchased Bonds at maturity are less than the PMP Outstanding Amount in respect of the relevant PMP Operation then the Beneficiary Member State shall repay to ESM the principal amount due resulting from the loan referred to in Clause 2.6 of these Facility Specific Terms together with all interest accrued thereon and all fees, costs, charges and other amounts relating thereto on the relevant PMP Operation Maturity Date, provided that ESM shall first cover such amounts by debiting the PMP Reserve Buffer.

8.4 Upon expiry of the PMP Facility, and provided that (A) no amount remains outstanding in respect of the Purchased Bonds or the PMP Facility and (B) no event of default exists in respect of any Facility provided by ESM to the Beneficiary Member State, ESM shall release to the Beneficiary Member State a portion of any remaining balance of the PMP Reserve Buffer in accordance with the ESM Pricing Policy. If these conditions are not satisfied ESM shall retain the PMP Reserve Buffer until all amounts owed to it by the Beneficiary Member State have been paid in full.

9. Payments

9.1 Clause 9 (*Payments*) of the General Terms shall apply to this PMP Facility.

9.2 The payment terms applicable to any Purchased Bonds shall be as set out in the Conditions of the Purchased Bonds.

10. Events of Default

10.1 Clause 10 (*Events of Default*) of the General Terms shall apply to this PMP Facility.

10.2 In addition to paragraph 10.1 above, ESM may, by written notice to the Beneficiary Member State, cancel all or any part of this PMP Facility and/or declare the aggregate principal amount of any or all Financial Assistance made and outstanding hereunder to be immediately due and payable, together with accrued interest and all other amounts due in respect thereof, following the occurrence of an event of default under the Conditions of the Purchased Bonds.

10.3 The Beneficiary Member State shall reimburse all costs, expenses, fees and loss of interest incurred and payable by ESM as a consequence of an early redemption of any Purchased Bonds as a consequence of the occurrence of an event of default under the Conditions of the Purchased Bonds. The loss of interest is the difference (if it is a positive amount) between the amount of interest ESM would receive at the Interest Rate of the relevant Purchased Bonds and the interest ESM would receive from the reinvestment of the amounts repaid early (as determined by ESM), in each case for the period between the date of the early redemption and the date on which the Financial Assistance was scheduled to be repaid.

11. Other Provisions

Clauses 11 (*Information Undertakings*), 12 (*Undertakings relating to Inspections, Fraud Prevention and Audits*), 13 (*Notices*), 15

(*Miscellaneous*) and 16 (*Governing Law and Jurisdiction*) of the General Terms shall apply to this Financial Institution Recapitalisation Facility.

Section 6

Secondary Market Bond Purchase Facility: Facility Specific Terms

1. Definitions and Interpretation

Clause 2 (*Definitions and Interpretation*) of the General Terms shall apply to this SMP Facility.

2. The Secondary Market Bond Purchase Facility

2.1 This SMP Facility is subject to the terms and conditions of the General Terms as varied or supplemented by these Facility Specific Terms and any additional terms set out in an Acceptance Notice.

2.2 The maximum aggregate principal amount which may be made available by way of SMP Operations under this SMP Facility is such amount as is decided by the Board of Governors, which amount shall not exceed the unused lending capacity from time to time of ESM and shall be further subject to any *pro tempore* limits established from time to time by the Board of Directors.

2.3 The Availability Period for this SMP Facility shall commence on (and include) the date on which these Facility Specific Terms enter into force in accordance with Clause 3 (*Entry into Force and Conditions Precedent*) to these Facility Specific Terms and shall expire on (and include) the earlier of (i) the date on which the Beneficiary Member State requests the Managing Director to stop implementing SMP Operations and (ii) the date on which the Board of Governors decides not to continue an SMP Facility following a monthly report by the Technical Sub-Committee which concludes that the SMP Facility is inadequate to contain the financial disturbance or following an assessment by the European Commission concludes that the Beneficiary Member State has deviated from policy conditionality. Any amounts not disbursed under these Facility Specific Terms on or prior to the last day of the Availability Period shall be immediately cancelled.

2.4 The Maturity of any Purchased Bonds acquired under this SMP Facility shall not exceed the Maximum Maturity.

2.5 Under this SMP Facility, ESM may provide Financial Assistance to the Beneficiary Member State by acquiring Series of Bonds

issued by the Beneficiary Member State in the secondary market subject to compliance with the ESM Guideline on the Secondary Market Support Facility.

2.6 In respect of each SMP Operation the Beneficiary Member State shall be liable to reimburse ESM in relation to each SMP Operation in a principal amount (if it is a positive amount) equal to:

- (a) the aggregate purchase price paid by ESM in respect of the Purchased Bonds; less
- (b) the principal amount received or realised by ESM in respect of the Purchased Bonds at maturity or on re-sale of the Purchased Bonds.

Such amount shall be treated as if it were a loan and the principal amount due by the Beneficiary Member State to ESM in respect thereof shall be determined in accordance with Clause 8 and shall be due and payable on the date determined under Clause 8.3(e) of these Facility Specific Terms.

2.7 ESM shall manage the Purchased Bonds acquired under this SMP Facility in accordance with the ESM Guideline on the Secondary Market Support Facility. ESM shall inform the Beneficiary Member State regarding the management of the Purchased Bonds and the Beneficiary Member State shall have the right to approve the conduct of sales of the Purchased Bonds if these would create any liability for the Beneficiary Member State except in circumstances where ESM would face a significant risk of realising a loss in relation to its holdings of Purchased Bonds of the relevant Beneficiary Member State irrespective of a possible decision to sell them.

3. Entry into Force and Conditions Precedent

3.1 This SMP Facility shall enter into force when the conditions in Clause 4.1 of the General Terms are satisfied and when the following additional conditions are satisfied:

- (a) ESM has received a legal opinion satisfactory to it given by the Legal Officer of the Beneficiary Member State substantially in the form of Part 1 of Schedule 2 (*Form of Legal Opinion*) of the General Terms. Such legal opinion shall be dated not later than the date of the first Request for Funds made under this SMP Facility;
- (b) following completion of the procedures in Articles 13(1) to (4) of the ESM Treaty, the Board of Directors has

approved the Financial Assistance Facility Agreement incorporating these Facility Specific Terms and the signature thereof by the Managing Director;

- (c) the ECB has conducted an analysis recognising exceptional market circumstances and a risk to the financial stability of the euro area as a whole or of its Member States;
- (d) the Beneficiary Member State satisfies the *ex ante* eligibility criteria set out in the ESM Guideline on the Secondary Market Support Facility;
- (e) if the Beneficiary Member State is then under stability support, the Commission (in liaison with the ECB) has confirmed its compliance with the policy conditions in the MoU or, if the Beneficiary Member State is not then under stability support, the Commission, with the approval of the Board of Governors, has signed the MoU with the Beneficiary Member State on behalf of ESM; and
- (f) the Financial Assistance Facility Agreement states that these Facility Specific Terms are applicable.

4. SMP Operations and Conditions to disbursement

4.1 Clauses 5 (*Requests for Funds, Disbursements and Conditions to Disbursement*) of the General Terms shall not apply to this SMP Facility.

4.2 Subject to the terms and conditions of these Facility Specific Terms, the Financial Assistance Facility Agreement and the MoU, the Beneficiary Member State may, after consultation with ESM, request SMP Operations under the SMP Facility to be made by delivery to ESM of a duly completed written Request for Funds.

4.3 Following a Request for Funds requesting SMP Operations under this SMP Facility, ESM may enter into SMP Operations under this SMP but subject to:

- (a) the Beneficiary Member State confirming in writing that no event has occurred that would render incorrect any statement made in the legal opinions received by ESM;
- (b) the Board of Directors, after considering the most recent periodic assessment of the Beneficiary Member State by the Commission in liaison with the ECB, being satisfied with the compliance by the Beneficiary Member State with the

terms of the MoU (as the same may be revised from time to time), including any prior actions (if any) and the eligibility criteria for an SMP Facility set out in the ESM Guideline on the Secondary Market Support Facility;

- (c) ESM being satisfied that all other conditions to utilisation of this SMP Facility are satisfied;
 - (d) the Board of Directors having established *pro-tempore* intervention limits for the implementation of this SMP Facility and the Technical Sub-Committee having approved an intervention strategy within the limits of such intervention limits;
 - (e) no material adverse change having occurred since the date of the Financial Assistance Facility such as would, in the opinion of ESM, after consultation with the Beneficiary Member State, be likely to prejudice materially the ability of the Beneficiary Member State to fulfil its payment obligations under the Financial Assistance Facility and this SMP Facility, including its ability to pay interest and principal under the Series of Bonds and under any amount outstanding under these Facility Specific Terms;
 - (f) no event of default having occurred under Clause 10 (*Events of Default*) of the General Terms or under these Facility Specific Terms which has not been cured to the satisfaction of ESM;
 - (g) on each Disbursement Date, the SMP Operation complies with the limits set by the Board of Directors and the Technical Sub-Committee.
 - (h) the Beneficiary Member State has not requested the Managing Director to stop implementing SMP Operations; and
 - (i) the Availability Period of this SMP Facility has not been terminated at the request of the Beneficiary Member State or by the Board of Governors or the Board of Directors pursuant to Clause 2(c) of these Facility Specific Terms.
- 4.4 The entry into of any SMP Operation under this SMP Facility shall under no circumstances commit any of the parties to proceed with the making and receiving of any further Financial Assistance or SMP Operation.

5. Representations, Warranties and Undertakings

- 5.1 Clause 6 (*Representations, Warranties and Undertakings*) of the General Terms shall apply to this SMP Facility.
- 5.2 In addition the Beneficiary Member State represents and warrants to ESM on the date of the Request for Funds and on the Disbursement Date that:
- (a) the Beneficiary Member State had full power and capacity to create, issue and sell each series of Purchased Bonds and enter into and perform the relevant Note Issuance Documents and the creation, issue and sale of each series of Purchased Bonds was, on or prior to the date of issue of each such series of Purchased Bonds, duly approved and authorised by all necessary action;
 - (b) each series of Purchased Bonds constitute legal, valid, binding and enforceable obligations of the Beneficiary Member State;
 - (c) each Note Issuance Document in relation to Purchased Bonds constitutes legal, valid, binding and enforceable obligations of the Beneficiary Member State;
 - (d) the information contained in any Prospectus relating to Purchased Bonds is true, accurate and not misleading in any material respect;
 - (e) it acknowledges that the portfolio of Purchased Bonds may be managed as provided in the ESM Guideline on the Secondary Market Support Facility; and
 - (f) the exemption established by Article 7 of Directive 2003/6 of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) and implemented in the implementing legislation and regulations of the Beneficiary Member State applies to ESM, in particular, in relation to any transactions carried out or entered into by ESM under or in connection with this SMP Facility.
- 5.3 In addition, the Beneficiary Member State undertakes, until such time as all principal under this SMP Facility has been fully reimbursed and all interest and additional amounts, if any, due under this SMP Facility have been fully paid, that:

- (a) ESM, the Commission and the ECB shall be permitted to monitor compliance by the Beneficiary Member State with the terms of the MoU during the Availability Period and, thereafter, the Beneficiary Member State shall permit post-Programme surveillance as contemplated by Recital (17) of the ESM Treaty;
- (b) it shall maintain the admission to listing, trading and quotation of any Purchased Bonds on the Relevant Stock Exchange;
- (c) it shall ensure that each issue of Purchased Bonds remains eligible for clearance and settlement through the clearing and settlement system applicable to such series of Purchased Bonds until all amounts in respect of such Purchased Bonds have been paid in full; and
- (d) it shall comply with all applicable laws, regulations, rulings, policies and guidelines (as amended from time to time) of any governmental or regulatory authority or central bank relevant to the issue of Purchased Notes and shall make all filings, disclosures or registrations necessary from time to time to ensure compliance with such laws, regulations, rulings, policies and guidelines.

6. Interest, Costs and Expenses

- 6.1 In respect of each SMP Outstanding Amount interest shall accrue at a rate equal to the applicable Interest Rate during each Bond Interest Period. Subject to Clause 7 (*Funding Shortfall*) of these Facility Specific Terms, Clause 7 (*Interest, Costs, Fees and Expenses*) of the General Terms shall apply to this SMP Facility.
- 6.2 The Beneficiary Member State shall pay ESM interest on Purchased Bonds in accordance with the terms and conditions of such Purchased Bonds.
- 6.3 The Beneficiary Member State shall bear all costs, charges and expenses, including legal, professional, banking, hedging and/or exchange charges incurred in connection with the preparation, execution, implementation and termination of an SMP Operation. These costs and expenses to be borne by the Beneficiary Member State include legal costs (such as costs incurred to obtain legal opinions and drafting documentation), rating agency costs, listing costs, travel costs (if applicable), commissions related to the Funding Instruments, fees of service providers and clearance systems, taxes, registration fees and publication costs.

7. Funding Shortfall

- 7.1 On each Calculation Date when there are SMP Operations outstanding, ESM shall calculate in relation to each Bond Interest Payment Date and each SMP Operation (i) the amount of the ESM Interest Amount for the relevant SMP Operation in respect of such Interest Payment Date and (ii) the amount, if any, by which the ESM Interest Amount exceeds the Bond Interest Amount (the "**Funding Shortfall**") and shall notify the Beneficiary Member States of these amounts.
- 7.2 In respect of any Funding Shortfall, the Beneficiary Member State agrees that, following calculation and notification of such Funding Shortfall, it will pay to ESM an amount equal to such Funding Shortfall promptly, and in any event within five (5) Business Days of a written demand.
- 7.3 If on any Calculation Date when there are SMP Operations outstanding the Bond Interest Amount exceeds the ESM Interest Amount, such excess will be retained by ESM in accordance with the ESM Pricing Policy.

8. Redemption, early redemption, mandatory redemption and cancellation

- 8.1 Clause 8 (Repayment, Early Repayment, Mandatory Repayment and Cancellation) of the General Terms apply to this SMP Facility.
- 8.2 The terms as to redemption and early redemption of Purchased Bonds are set out in the Conditions of the Purchased Bonds and are not varied by the terms of this SMP Facility.
- 8.3 In addition to the repayment obligations set out in the Financial Assistance Facility Agreement, the following provisions apply:
 - (a) on each date on which the Beneficiary Member State makes a repayment of principal or redeems in full Purchased Bonds, the SMP Outstanding Amount in respect of the relevant SMP Operation shall be automatically reduced by an amount equal to the principal amount received by ESM in respect of the relevant Purchased Bonds;
 - (b) ESM may re-sell any Purchased Bonds prior to their scheduled maturity date in accordance with the ESM Guideline on the Secondary Market Support Facility and subject to complying with Clause 2.7 of these Facility Specific Terms;

- (c) if ESM re-sells any Purchased Bonds prior to their scheduled maturity date then the SMP Outstanding Amount in respect of the relevant SMP Operation shall be automatically reduced by an amount equal to the net sales proceeds received by ESM in respect of such Purchased Bonds (excluding any portion of the sales proceeds which relate to accrued interest and net of any commission, fees or costs incurred by ESM in respect of the sale of such Purchased Bonds);
- (d) if the net sales proceeds of Purchased Bonds exceed the SMP Outstanding Amount the excess shall be retained by ESM in accordance with the ESM Pricing Policy;
- (e) if the net sales proceeds of Purchased Bonds or the amount received in respect of Purchased Bonds at maturity are less than the SMP Outstanding Amount in respect of the relevant SMP Operation then the Beneficiary Member State shall repay to ESM the principal amount resulting from the loan referred to in Clause 2.6 of these Facility Specific Terms together with all interest accrued thereon and all fees, costs, charges and other amounts relating thereto on the relevant SMP Operation Maturity Date.

9. Payments

- 9.1 Clause 9 (*Payments*) of the General Terms shall apply to this SMP Facility.
- 9.2 The payment terms applicable to any Purchased Bonds shall be as set out in the Conditions of the Purchased Bonds.

10. Events of Default

- 10.1 Clause 10 (*Events of Default*) of the General Terms shall apply to this SMP Facility.
- 10.2 In addition to Clause 10.1 of these Facility Specific Terms above, ESM may, by written notice to the Beneficiary Member State, cancel all or any part of this SMP Facility and/or declare the aggregate principal amount of any or all Financial Assistance made and outstanding hereunder to be immediately due and payable, together with accrued interest and all other amounts due in respect thereof, following the occurrence of an event of default under the Conditions of the Purchased Bonds.
- 10.3 The Beneficiary Member State shall reimburse all costs, expenses, fees and loss of interest incurred and payable by ESM as a

consequence of an early redemption of any Purchased Bonds as a consequence of the occurrence of an event of default under the Conditions of the Purchased Bonds. The loss of interest is the difference (if it is a positive amount) between the amount of interest ESM would receive at the Interest Rate of the relevant Purchased Bonds and the interest ESM would receive from the reinvestment of the amounts repaid early (as determined by ESM), in each case for the period between the date of the early redemption and the date on which the Financial Assistance was scheduled to be repaid.

11. Other Provisions

Clauses 11 (*Information Undertakings*), 12 (*Undertakings relating to Inspections, Fraud Prevention and Audits*), 13 (*Notices*), 15 (*Miscellaneous*) and 16 (*Governing Law and Jurisdiction*) of the General Terms shall apply to this SMP Facility.

Signed for the purpose of authentication on 29 April 2013 in Luxembourg and on 29 April 2013 in Nicosia.

EUROPEAN STABILITY MECHANISM

Represented by Klaus Regling,
Managing Director

REPUBLIC OF CYPRUS

Represented by Harris Georgiades,
Minister of Finance

CENTRAL BANK OF CYPRUS

Represented by Panicos O. Demetriades,
Governor of Central Bank of Cyprus

FINANCIAL ASSISTANCE FACILITY AGREEMENT

between

EUROPEAN STABILITY MECHANISM

and

THE REPUBLIC OF CYPRUS
as the Beneficiary Member State

and

CENTRAL BANK OF CYPRUS
as Central Bank

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THIS FINANCIAL ASSISTANCE FACILITY AGREEMENT is made by and between:

- (1) **EUROPEAN STABILITY MECHANISM**, an intergovernmental organisation established by the Treaty Establishing the European Stability Mechanism entered into between the euro area Member States, having offices at 6a, Circuit de la Foire Internationale, L-1347 Luxembourg, represented by Mr. Klaus Regling, Managing Director ("**ESM**");
- (2) **THE REPUBLIC OF CYPRUS**, represented by the Minister of Finance, Mr. Harris Georgiades, as the beneficiary member state (the "**Beneficiary Member State**"); and
- (3) **CENTRAL BANK OF CYPRUS**, represented by the Governor of Central Bank of Cyprus, Prof. Panicos O. Demetriades, (the "**Central Bank**");

herein jointly referred to as the "**Parties**" and each of them a "**Party**".

PREAMBLE

WHEREAS

- (A) ESM was established by the Treaty Establishing the European Stability Mechanism entered into between the euro area Member States (the "**ESM Treaty**") for the purpose of mobilising funding and providing stability support for the benefit of ESM members which are experiencing, or are threatened by, severe financial problems, if indispensable to safeguard the financial stability of the euro area as a whole and of its member states.
- (B) ESM may grant financial assistance under financial assistance facility agreements by way of loan disbursements under precautionary conditioned credit lines or enhanced conditions credit lines, loans to ESM members under macro-economic adjustment programmes, facilities to finance the recapitalisation of financial institutions in an ESM member state, facilities for the purchases of bonds in the primary or secondary markets, all subject to strict conditionality appropriate to the financial instrument(s) chosen (each such loan or disbursement under such a financial assistance facility agreement being a "**Financial Assistance**").
- (C) ESM shall finance the making of Financial Assistance by issuing or entering into bonds, notes, commercial paper, debt securities or other financing arrangements ("**Funding Instruments**") in order to fund Financial Assistance on a pooled basis or on a dedicated matched-funding basis or out of the Liquidity Buffer (as defined in the General Terms), as appropriate. The Funding Instruments shall be issued or entered into either on a stand-alone basis or pursuant to one or more debt issuance programmes (each an "**ESM Debt Issuance Programme**") in accordance with the ESM Borrowing Guidelines (as defined in the General Terms).
- (D) The Beneficiary Member State addressed a request for stability support to the President of the Eurogroup on 25 June 2012. In its statement of 27 June 2012, the Eurogroup stated that the financial assistance to Cyprus would be provided by the EFSF or the ESM.

- (E) The Beneficiary Member State has addressed a similar request for financial assistance to the International Monetary Fund in accordance with Recital (8) of the ESM Treaty. The definitive Aggregate Financial Assistance Amount and Aggregate Loan Facility Amount to be made available by ESM to the Beneficiary Member State shall be determined in light of the amount of financial assistance to be provided by the International Monetary Fund and shall be set out in a written notice from ESM to the Beneficiary Member State and the Central Bank and counter-signed by and on behalf of the Beneficiary Member State and the Central Bank.
- (F) The European Commission, in liaison with the ECB, assessed (i) the existence of a risk of financial stability of the euro area as a whole or of its member states (unless ECB has already submitted an analysis under Article 18(2) of the ESM Treaty), (ii) whether the public debt of the Beneficiary Member State was sustainable and (iii) the actual or potential financing needs of the Beneficiary Member State, and on the basis of such assessment the Board of Governors decided in principle to grant stability support to the Beneficiary Member State in the form of a financial assistance facility.
- (G) A Memorandum of Understanding was entered into between the European Commission (on behalf of the ESM and with the approval of its Board of Governors) and the Beneficiary Member State. The financial assistance to be provided to the Beneficiary Member State under this Agreement, including the Facility Specific Terms (as defined below) shall be dependent upon compliance by the Beneficiary Member State with the measures set out in the Memorandum of Understanding.
- (H) The Board of Governors has adopted the proposal of the Managing Director for a financial assistance facility agreement, including the financial terms and conditions and the choice of instruments, and the Board of Directors (as defined in the General Terms) of the ESM has approved this Agreement.
- (I) The release of Financial Assistance under this Agreement (other than the release of the first Tranche of Financial Assistance under this Agreement which has already been approved by the Board of Directors), including the Facility (as defined below), shall, unless otherwise specified, be conditional upon the Board of Directors deciding, on the basis of reports from the European Commission (in liaison with the ECB) in accordance with Article 13(7) of the ESM Treaty, that the Beneficiary Member State has complied with the conditionality attached to this Agreement, including compliance with the measures set out in the Memorandum of Understanding.
- (J) It is acknowledged and agreed that the Central Bank is a party to this Agreement for the purpose of, inter alia, receiving disbursements on behalf of the Beneficiary Member State.
- (K) Appropriate measures related to the prevention of, and the fight against, fraud, corruption and other irregularities affecting any Financial Assistance shall be provided for and implemented by the authorities of the Beneficiary Member State.

Now, therefore, the Parties hereto have agreed as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Subject to Clauses 1.2 to 1.5 (below), Clause 2 (*Definitions and Interpretation*) of the General Terms shall apply to this Financial Assistance Facility Agreement.

1.2 In this Financial Assistance Facility Agreement the following capitalised terms shall have the following meanings:

"Aggregate Financial Assistance Amount" means up to EUR 10,000,000,000 provided that the definitive Aggregate Financial Assistance Amount shall be determined in light of the amount of financial assistance to be provided by the IMF and shall be set out in a written notice from ESM to the Beneficiary Member State and the Central Bank and counter-signed by and on behalf of the Beneficiary Member State and the Central Bank.

"Aggregate Loan Facility Amount" means up to EUR 10,000,000,000 provided that the definitive Aggregate Loan Facility Amount shall be determined in light of the amount of financial assistance to be provided by the IMF and shall be set out in a written notice from ESM to the Beneficiary Member State and the Central Bank and counter-signed by and on behalf of the Beneficiary Member State and the Central Bank.

"Applicable Facility" means the Facility specified in Clause 2.2 of this Financial Assistance Facility Agreement.

"Availability Period" means in relation to the Facility the period commencing on and including the date when the Facility enters into force and ending on (and including) the Availability Period Termination Date.

"Availability Period Termination Date" means 31 March 2016.

"Debt Agency" means the Public Debt Management Office of the Ministry of Finance.

"Designated Euro Account" means for any Disbursement Date the euro account of the Beneficiary Member State with the Central Bank having initially the following account details: BIC CBCYCY2NXXX IBAN: CY16001000010000000006001010; provided that the Designated Euro Account with the Central Bank may be temporarily or permanently changed by written notice by the Central Bank to ESM and the ECB advising of such change (with a copy addressed to the Beneficiary Member State) at the latest two (2) Business Days prior to the Disbursement Date.

"Facility Specific Terms" means the standard facility terms which apply to a particular category of facility as set out in the Standard ESM Facility Specific Terms signed by the Parties for the purpose of authentication on the date hereof.

"General Terms" means the General Terms for ESM Financial Assistance Facilities signed by the Parties for the purpose of authentication on the date hereof.

"Legal Officer" means the Attorney General of the Republic of Cyprus.

"Maximum Average Maturity" means 15 years.

"**Maximum Maturity**" means 20 years.

"**Minimum Cancellation Amount**" means EUR 100,000,000.

"**Minimum Voluntary Prepayment Amount**" means EUR 100,000,000.

"**MoU**" means the Memorandum of Understanding (as the same may be amended or supplemented from time to time) to be entered into between the Commission, the IMF, the Beneficiary Member State and the Central Bank on 26 April 2013.

- 1.3 The General Terms and, in respect of the Facility referred to in Clause 2.2 of this Financial Assistance Facility Agreement, the relevant Facility Specific Terms shall be incorporated into this Financial Assistance Facility Agreement subject to any variation, supplement or replacement of (a) the General Terms set out in Clause 3.1 of this Financial Assistance Facility Agreement or (b) the relevant Facility Specific Terms set out in Clause 3.2 of this Financial Assistance Facility Agreement.
- 1.4 Clause 1.2 of the General Terms and Clause 4 of the Introductory Provisions to the Facility Specific Terms shall apply in the event of any inconsistency or conflict between this Financial Assistance Facility Agreement, the General Terms and the Facility Specific Terms.
- 1.5 If the Board of Directors of ESM adopts new General Terms or Facility Specific Terms or adopts any amendments to the General Terms or Facility Specific Terms, these shall not be incorporated automatically into this Financial Assistance Facility Agreement. If ESM and each of the Parties to this Financial Assistance Facility Agreement intend to incorporate into this Financial Assistance Facility Agreement the new or amended General Terms or Facility Specific Terms, this shall be effected by an amendment in writing to this Financial Assistance Facility Agreement entered into pursuant to Clause 4 of this Financial Assistance Facility Agreement (following the receipt of all approvals required under the ESM Treaty to authorise such amendment).

2. **THE FINANCIAL ASSISTANCE FACILITY AND SPECIFIC FACILITIES**

- 2.1 ESM makes available to the Beneficiary Member State under this Financial Assistance Facility Agreement a financial assistance facility (the "**Financial Assistance Facility**") in the Aggregate Financial Assistance Amount subject to the terms and conditions of the MoU, the General Terms and the relevant Facility Specific Terms. The Financial Assistance Facility may be made available by ESM to the Beneficiary Member State by way of Financial Assistance. The aggregate principal amount outstanding of the Financial Assistance under the Facility shall not at any time exceed the Aggregate Financial Assistance Amount.
- 2.2 The Financial Assistance Facility may be provided in the form of a Loan Facility in a principal amount up to the Aggregate Loan Facility Amount, such Loan Facility being on the terms and subject to the conditions specified in the Facility Specific Terms entitled "Loan Facility: Facility Specific Terms" (the "**Facility**") which constitutes the Applicable Facility.
- 2.3 ESM shall not be authorised to provide any Financial Assistance under the Facility other than in accordance with and upon the terms of the Agreement. The Beneficiary

Member State shall not be under any obligation to make a Request for Funds under the Facility or to acknowledge any Acceptance Notice.

- 2.4 The Preamble and the Schedules to each document which comprise part of the Agreement do and shall hereafter form an integral part of the Agreement.

3. **VARIATIONS, SUPPLEMENTS OR REPLACEMENTS TO THE GENERAL TERMS AND/OR TO FACILITY SPECIFIC TERMS**

- 3.1 The following variations, supplements or replacements shall apply in relation to the General Terms:

- (a) each reference to "the Applicable Facilities" in the General Terms shall be deemed to be a reference to "the Applicable Facility";
- (b) each reference to "the Facilities" in the General Terms shall be deemed to be a reference to "the Facility";
- (c) in Clause 16.3, the words "provided that in case the provisions of Article 37 of the ESM Treaty do not apply with respect to the Central Bank, the Parties shall enter into such amendments and/or supplements to the Agreement as are necessary to provide for the submission of such Dispute for settlement" shall be added at the end of the sentence.

4. **ENTRY INTO FORCE OF AMENDMENTS**

Any term of this Financial Assistance Facility Agreement may be amended or waived only by an agreement in writing signed by ESM (following the receipt of all approvals required under the ESM Treaty to authorise such amendment), the Beneficiary Member State and each of the other Parties hereto. Following its signature by all Parties, the entry into force of any amendment to this Financial Agreement which adds a new Facility and makes additional or replacement Facility Specific Terms applicable shall be subject to the receipt by ESM of the legal opinion described in Clause 4.1 of the General Terms in relation to the amendment of this Financial Assistance Facility Agreement and incorporation of such additional or replacement Facility Specific Terms.

5. **EXECUTION OF THE AGREEMENT**

This Agreement and its relevant Schedules (if applicable) shall be executed by each Party in three (3) originals in the English language, each of which shall constitute an original instrument.

6. **SCHEDULES**

The Schedule(s) to this Agreement shall constitute an integral part hereof and as of the date of this Agreement comprise:

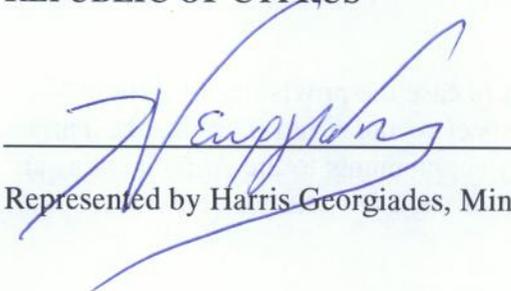
Schedule 1: List of Contacts

Executed in Nicosia on [●] and in Luxembourg on [●].

EUROPEAN STABILITY MECHANISM

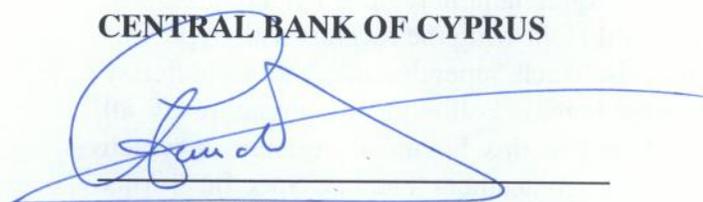
Represented by Klaus Regling, Managing Director

REPUBLIC OF CYPRUS



Represented by Harris Georgiades, Minister of Finance

CENTRAL BANK OF CYPRUS



Represented by Panicos O. Demetriades, Governor of Central Bank of Cyprus

**Schedule 1
List of Contacts**

For ESM:

European Stability Mechanism
6a, Circuit de la Foire Internationale
L-1347 Luxembourg
Attention: Chief Financial Officer
Tel: +352 260 962 600
Fax: +352 260 911 600
SWIFT-BIC: ECBFDEFFBAC

With copies to:

European Commission
Directorate General Economic and Financial Affairs –
Unit L-4 "Borrowing, lending, accounting and back office"
L-2920 Luxembourg
Attention: Head of Unit
Tel.: (+352) 4301 36372
Fax: (+352) 4301 36599
SWIFT address: EUCOLULL

European Central Bank
Kaiserstrasse 29
D-60311 Frankfurt am Main
Attention: Head of Financial Operations Services Division
Tel.: + 49 69 1344 3470
Fax: + 49 69 1344 6171
SWIFT BIC: ECBFDEFFBAC

For the Beneficiary Member State:

Minister of Finance - Ministry of Finance - Republic of Cyprus,
Michael Karaoli & Gregori Afxentiou, 1439 Nicosia, Cyprus
Attention: Permanent Secretary, Ministry of Finance
Tel.: +357 22601115
Fax: +357 22602743
Email: perm.sec@mof.gov.cy

With copies to:

Central Bank of Cyprus
80 Kennedy Avenue
P.O. Box 25529
1395 Nicosia - Cyprus
Attention: Director of Payment Systems and Accounting Services Department
Tel.: + 357 22 714354 / + 357 22 714100
Email: paymentsystems@centralbank.gov.cy

Public Debt Management Office, Ministry of Finance, Republic of Cyprus
Michael Karaoli & Gregori Afxentiou, 1439 Nicosia - Cyprus
Attention: Head of the Public Debt Management Office
Tel.: + 357 22601182
Fax: + 357 22602749
Email: pdm@mof.gov.cy