

The ESM



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Timetable

- **2008 - The financial crisis hit.**
- **Summer 2010 - Temporary assistance mechanisms established:**
 - **May 2010: EFSM (European Financial Stability Mechanism).**
 - **June 2010 - : EFSF (European Financial Stability Facility)**
- **25 March 2011 - Amendment of Art. 136 TFEU.**
- **13 December 2011 – the ‘Six Pack’ came into force.**
- **2 February 2012 – Conclusion of ESM Treaty.**
- **27 September 2012 – Ratification crosses threshold.**
- **8 October 2012 – Start of ESM operation.**
- **30 May 2013 – the ‘Two Pack’ came into force.**

Eligibility to Financial Assistance

EMU Members:

Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Portugal, Slovakia, Slovenia, Spain.

Eligible to EFSF+EFSM , replaced by ESM

Non-EMU Members

**Bulgaria, Czech Republic, Croatia
Hungary, Poland, Romania, Sweden,
Denmark, the UK.**

Eligible to assistance by EU

**Member States, international organizations
(IMF, World Bank) and EU's Balance of
Payments (BoP) Program.**

(Hungary, Romania & Latvia before joining the EMU received this assistance).





The Temporary Instruments: EFSF and EFSM (2010-11)

- **Financially assisted EMU Members in financial crisis.**
- **Issue bonds or other debt instruments on the market.**

EFSF

- **Guaranteed by EMU Member States in proportion to their share in the paid-up capital of the ECB.**
- **Originally authorized to borrow 440 bn Euro. This amount was enlarged in 2011 to 780 bn Euro.**

EFSM

- **Guaranteed by EU Commission, Using EU budget as collateral.**
- **Authorized to raise up to 60 bn Euro.**
- **It was possible to combine the two resources + IMF Assistance.**
- **Assisted Ireland, Portugal and Greece.**
- **Current status: does not lend, continues to manage given loans.**

The ESM (European Stability Mechanism)

- **Legal framework: international organization.**
- **Establishment means: an intergovernmental treaty, governed by public Intl. law.**
- **Entry into force date: 27 September 2012.**
- **Ratification CzR: 23 April 2013, entry into force: 1 May 2013.**
- **Maximum lending capacity: 500 billion Euro.**
- **Total subscribed capital of €704.8 billion, with paid-in capital (€80.5 billion) and committed callable capital (€624.3 billion)**
- **Resources: Member States' contribution.**
- **Shareholders: 19 Member States.**
- **Management: headquarters in Luxembourg city:**

<http://esm.europa.eu/>

- **ESM assistance can be combined with IMF and bilateral assistance.**



The ESM: three Circles of Decision Making

- **Board of Governors (finance ministers) – political circle. ‘May invite’ ad hoc observers to its meetings.**
- **Board of Directors – professional directors appointed by the Governors. ‘May invite’ ad hoc observers to its meetings.**
- **Managing director – professional appointed by the Board of Governors.**



Voting



- **Board of Governors:**
 - **Mutual agreement Art. 5(6) ESMT**
 - **qualified majority (80% of the votes cast) Art. 5(7) ESMT**
 - **Simple majority – all other cases.**
- “[i]n respect of all decisions, a quorum of 2/3 of the members with voting rights representing at least 2/3 of the voting rights must be present.” (Article 4(2) ESMT)
- file:///C:/Documents%20and%20Settings/Nellie%20Munin/My%20Documents/Downloads/20150203%20-%20ESM%20Treaty%20-%20EN.pdf
- **Board of Directors**
 - qualified majority, unless the Treaty states otherwise

ESM Assistance Instruments

- Provide loans in the framework of a macroeconomic adjustment program.
- Purchase debt in the primary and secondary debt markets.
- Provide precautionary financial assistance in the form of credit lines.
- Finance recapitalizations of financial institutions through loans to the governments of ESM Members.
- Directly recapitalize financial institutions (as an instrument of last resort - when bail-in and contribution from resolution fund are insufficient to return an institution to viability).



Preconditions for Assistance

- **Full ratification of the ‘Fiscal Compact’** (stricter version of the Stability and Growth Pact).
- **Analysis of the requesting country’s economy by the EU Commission, ECB and IMF to determine the due manner of assistance.**



‘Fiscal Compact’:

Part of The Treaty on Stability, Coordination and Governance (TSCG)

- **A general budget deficit less than 3.0% of the gross domestic product (GDP).**
- **A structural deficit of less than 1.0% of GDP if the debt level is below 60%.
Otherwise, it must fall below 0.5% of GDP.**
- **Defining thresholds:**
 - **The ‘debt break’ criteria.**
 - **The ‘balanced budget rule’.**





Assisted Countries

- Greece
- Spain
- Portugal



Conclusion

- **The ESM is established by a public international law treaty.**
- **Therefore, theoretically, it is not considered part of EU law.**
- **Nevertheless, it is subject to CJEU judgment.**
- **It is accompanied by the ‘Fiscal Compact’ Treaty that tightens fiscal stability criteria.**
- **It consists of three circles of decision making. The highest instance is political.**



Thank You

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