Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.



Number 32 *of* 2014

EUROPEAN STABILITY MECHANISM (AMENDMENT) ACT 2014

REVISED

Updated to 9 December 2021

This Revised Act is an administrative consolidation of the *Template Act 0000*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Finance (European Stability Mechanism and Single Resolution Fund) Act 2021* (38/2021), enacted 9 December 2021, and all statutory instruments up to and including the *Gaeltacht Act 2012 (Designation of Gaeltacht Language Planning Areas) (No. 4) Order 2021* (S.I. No. 710 of 2021), made 8 December 2021, were considered in the preparation of this Revised Act.

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Number 32 *of* 2014

EUROPEAN STABILITY MECHANISM (AMENDMENT) ACT 2014

REVISED

Updated to 9 December 2021

CONTENTS

Section

1. Interpretation

2. Amendment of definition of "Treaty" in Principal Act

3. Provision with respect to particular type of instrument and particular entities

4. Class of instrument to which section 3 relates

5. Application of sections 5, 6 and 7 of Principal Act

6. Short title, collective citation and construction

SCHEDULE

PART 1

TEXT OF TREATY IN THE IRISH LANGUAGE

PART 2

TEXT OF TREATY IN THE ENGLISH LANGUAGE

ACTS REFERRED TO

European Stability Mechanism Act 2012 (No. 20)

Number 32 *of* 2014

EUROPEAN STABILITY MECHANISM (AMENDMENT) ACT 2014

REVISED

Updated to 9 December 2021

An Act to amend and extend the European Stability Mechanism Act 2012 and to provide for related matters. [30 *th October*, 2014]

Be it enacted by the Oireachtas as follows:

Interpretation

1. (1) In this Act—

"Board of Governors" means the Board of Governors referred to in Article 4;

"ESM" means the international financial institution established as the European Stability Mechanism by Article 1;

"ESM Member" means a state that is a member of the ESM;

"Principal Act" means the European Stability Mechanism Act 2012;

F1**[**"Treaty" has the meaning given to it by section 1 (amended by section 3 (a) of the Finance (European Stability Mechanism and Single Resolution Fund) Act 2021) of the Principal Act.**]**

(2) A reference in this Act to a numbered Article is a reference to the Article so numbered of the Treaty.

Amendment of definition of "Treaty" in Principal Act

2. (1) Section 1 of the Principal Act is amended by substituting the following for the definition of "Treaty" —

" 'Treaty' means the Treaty establishing the European Stability Mechanism done at Brussels on 2 February 2012 between the Euro Area Member States of the European Union as adapted in consequence of the accession of the Republic of Latvia to it on 13 March 2014, the text of which (including the Annexes and in both of the official languages), is set out, as provided by *section 2(2)* of the *European Stability Mechanism (Amendment) Act 2014*, in the *Schedule* to that Act;".

(2) The text (including the Annexes) of the Treaty, that is to say the Treaty referred to in section 1, as it stands amended by *subsection (1)*, of the Principal Act, is set out in—

(a) *Part 1* of the *Schedule* in the Irish language, and

(b) *Part 2* of the *Schedule* in the English language.

(3) The Schedule to the Principal Act is repealed.

Provision with respect to particular type of instrument and particular entities

3. The legal incidents and effects that the provisions of the Treaty and the Principal Act comprise shall include the legal incidents and effects arising by virtue or in consequence of—

(a) the granting of an instrument of the class specified in *section 4* , and

(b) the establishment of subsidiary bodies or sub-entities by the ESM the purpose of which is to finance or implement, or to have vested in them ownership of, the capital instruments related to the recapitalisation referred to in *section 4* .

Class of instrument to which *section 3* relates

4. The class of instrument referred to in *section 3* is an instrument that effects the direct recapitalisation of a financial institution of an ESM member, being an instrument added to the list of financial instruments provided for in Articles 14 to 18 by a decision made by the Board of Governors under Article 19.

Application of sections 5, 6 and 7 of Principal Act

5. Sections 5, 6 and 7 of the Principal Act shall apply to the ESM acting through a subsidiary body or sub-entity referred to in *section 3(b)* as they apply to the ESM otherwise.

Short title, collective citation and construction

6. (1) This Act may be cited as the European Stability Mechanism (Amendment) Act 2014.

(2) The European Stability Mechanism Act 2012 and this Act may be cited together as the European Stability Mechanism Acts 2012 and 2014 and shall be read together as one.

SCHEDULE

PART 1

TEXT OF TREATY IN THE IRISH LANGUAGE

CONRADH

LENA mBUNAÍTEAR AN SÁSRA COBHSAÍOCHTA

EORPACH

IDIR RÍOCHT NA BEILGE, POBLACHT CHÓNAIDHME NA

GEARMÁINE,

POBLACHT NA hEASTÓINE, ÉIRE, AN PHOBLACHT

HEILLÉANACH,

RÍOCHT NA SPÁINNE, POBLACHT NA FRAINCE,

POBLACHT NA hIODÁILE, POBLACHT NA CIPIRE,

POBLACHT NA LAITVIA,

ARD-DIÚCACHT LUCSAMBURG, MÁLTA,

RÍOCHT NA hÍSILTÍRE, POBLACHT NA hOSTAIRE,

POBLACHT NA PORTAINGÉILE, POBLACHT NA

SLÓIVÉINE,

POBLACHT NA SLÓVAICE AGUS POBLACHT NA

FIONLAINNE

TÁ NA PÁIRTITHE CONARTHACHA, Ríocht na Beilge, Poblacht Chónaidhme na Gearmáine, Poblacht na hEastóine, Éire, an Phoblacht Heilléanach, Ríocht na Spáinne, Poblacht na Fraince, Poblacht na hIodáile, Poblacht na Cipire, Poblacht na Laitvia, Ard-Diúcacht Lucsamburg, Málta, Ríocht na hÍsiltíre, Poblacht na hOstaire, Poblacht na Portaingéile, Poblacht na Slóivéine, Poblacht na Slóvaice agus Poblacht na Fionlainne ("Ballstáit an limistéir euro" nó "Comhaltaí SCE");

AR A BHEITH TIOMANTA do chobhsaíocht airgeadais an limistéir euro a áirithiú;

AG MEABHRÚ DÓIBH Chonclúidí na Comhairle Eorpaí maidir le sásra cobhsaíochta Eorpach a bhunú a glacadh an 25 Márta 2011;

DE BHARR AN MÉID SEO A LEANAS:

(1) Tháinig an Chomhairle Eorpach ar chomhaontú an 17 Nollaig 2010 go gcaithfeadh Ballstáit an limistéir euro buansásra cobhsaíochta a bhunú. Glacfaidh an Sásra Cobhsaíochta Eorpach seo ("SCE") na cúraimí atá á gcomhall ag an tSaoráid Chobhsaíochta Airgeadais Eorpach ("SaorCAE") agus ag an Sásra Cobhsaíochta Airgeadais Eorpach ("SásCAE") faoi láthair

air féin le linn cúnamh airgeadais a sholáthar, i gcás inar gá sin, do Bhallstáit de chuid an limistéir euro.

(2) An 25 Márta 2011, ghlac an Chomhairle Eorpach Cinneadh 2011/199/AE lena leasaítear Airteagal 136 den Chonradh ar Fheidhmiú an Aontais Eorpaigh maidir le sásra cobhsaíochta le haghaidh na mBallstát a bhfuil an euro mar airgeadra acu [1] agus lena gcuirtear an mhír seo a leanas le hAirteagal 136: "Féadfaidh na Ballstáit a bhfuil an euro mar airgeadra acu sásra cobhsaíochta a bhunú atá le gníomhachtú má tá sé sin fíor-riachtanach chun cobhsaíocht an limistéir euro ina iomláine a choimirciú. Beidh deonú aon chúnaimh airgeadais atá ag teastáil faoin sásra faoi réir coinníollachta doichte".

(3) D'fhonn éifeachtacht an chúnaimh airgeadais a mhéadú agus an priacal aicídithe airgeadais a chosc, tháinig Ceannairí Stáit nó Rialtais na mBallstát a bhfuil an euro mar airgeadra acu ar chomhaontú an 21 Iúil 2011 'solúbthacht [SCE] a mhéadú ach coinníollacht chuí a bheith ceangailte leis'.

(4) Is é an chéad bheart cosanta ba cheart a bheith ann fós i gcoinne géarchéimeanna muiníne, a dhéanfadh dochar do chobhsaíocht an limistéir euro, urramú docht chreat an Aontais Eorpaigh, an fhaireachais mhaicreacnamaíoch chomhtháite, agus go háirithe an Chomhshocraithe Cobhsaíochta agus Fáis, an chreata um míchothromaíochtaí maicreacnamaíocha agus na rialacha maidir le rialachas eacnamaíoch an Aontais Eorpaigh.

(5) An 9 Nollaig 2011, chomhaontaigh Ceannairí Stáit nó Rialtais na mBallstát a bhfuil an euro mar airgeadra acu gluaiseacht i dtreo aontais eacnamaíoch níos láidre, lena n-áirítear comhaontú buiséadach nua agus comhordú treisithe ar bheartas eacnamaíoch a chuirfear chun feidhme trí chomhaontú idirnáisiúnta, an Conradh ar Chobhsaíocht, ar Chomhordú agus ar Rialachas san Aontas Eacnamaíoch agus Airgeadaíochta ("CCCR"). Cuideoidh CCCR le comhordú níos dlúithe a fhorbairt laistigh den limistéar euro d'fhonn bainistíocht mharthanach, fhónta agus urrúnta ar an airgeadas poiblí a áirithiú, agus tabharfaidh sé aghaidh ar an gcaoi sin ar cheann de phríomhfhoinsí na héagobhsaíochta airgeadais. Is conarthaí comhlántacha an Conradh seo agus CCCR i dtaca leis an bhfreagracht bhuiséadach agus an dlúthpháirtíocht laistigh den aontas eacnamaíoch agus airgeadaíochta a chothú. Admhaítear agus comhaontaítear go mbeidh deonú cúnaimh airgeadais faoi chreat chláir nua faoi SCE coinníollach, amhail ar an 1 Márta 2013, ar an gComhalta de SCE lena mbaineann do dhaingniú CCCR agus, ar dhul in éag don tréimhse trasuite dá dtagraítear in Airteagal 3(2) CCCR, ar chomhlíonadh cheanglais an airteagail sin.

(6) I bhfianaise an idirghaoil láidir atá ann laistigh den limistéar euro, d'fhéadfadh priacail mhóra do chobhsaíocht airgeadais Bhallstáit a bhfuil an euro mar airgeadra acu cobhsaíocht airgeadais an limistéir euro ina iomláine a chur i bpriacal. Féadfaidh SCE, dá bhrí sin, tacaíocht chobhsaíochta a sholáthar ar bhonn coinníollachta doichte, a bheidh cuí don ionstraim cúnaimh airgeadais a roghnófar, má tá sé sin fíor-riachtanach chun cobhsaíocht airgeadais an limistéir euro ina iomláine agus a Bhallstát a choimirciú. Tá uasmhéid na hiasachtóireachta is féidir a sholáthar i dtosach ó SCE socraithe ag EUR 500 000 milliún, lena n-áirítear an tacaíocht chobhsaíochta SCE atá fós gan aisíoc. Déanfar leordhóthanacht uasmhéid comhdhlúite iasachtóireachta SCE agus SaorCAE a athmheasúnú, áfach, sula dtiocfaidh an Conradh seo i bhfeidhm. Más cuí, déanfaidh Bord Rialtóirí SCE é a mhéadú, i gcomhréir le hAirteagal 10, ar theacht i bhfeidhm an Chonartha seo.

[1]IO L 91, 6.4.2011, lch. 1.

(7) Tiocfaidh gach Ballstát den limistéar euro chun bheith ina Chomhalta de SCE. Mar thoradh ar chomhaltas den limistéar euro a fháil, ba cheart go dtiocfadh Ballstát den Aontas Eorpach chun bheith ina Chomhalta de SCE, agus na cearta iomlána agus na hoibleagáidí iomlána aige, i gcomhréir le cearta agus le hoibleagáidí na bPáirtithe Conarthacha.

(8) Comhoibreoidh SCE go dlúth leis an gCiste Airgeadaíochta Idirnáisiúnta ("CAI") le linn tacaíocht chobhsaíochta a sholáthar. Féachfar le rannpháirtíocht ghníomhach CAI a fháil, ar an leibhéal teicniúil agus ar leibhéal an airgeadais. Maidir le haon Bhallstát den limistéar euro a iarrfaidh cúnamh airgeadais ar SCE, beifear ag súil go ndéanfaidh sé, i ngach cás gur féidir, iarraidh chomhchosúil a dhíriú chuig CAI.

(9) Maidir le Ballstáit an Aontais Eorpaigh nach bhfuil an euro mar airgeadra acu ("Ballstáit nach den limistéar euro") a ghlacfaidh páirt ar bhonn ad hoc i gcomhar le SCE in oibríocht tacaíochta cobhsaíochta do Bhallstáit de chuid an limistéir euro, iarrfar orthu freastal, i gcáil breathnóirí, ar chruinnithe SCE nuair a phléifear an tacaíocht chobhsaíochta sin agus an faireachán a dhéanfar uirthi. Beidh rochtain acu ar an bhfaisnéis uile ar mhodh tráthúil agus rachfar i gcomhairle leo go cuí.

(10) An 20 Meitheamh 2011, thug ionadaithe Rialtais Bhallstáit an Aontais Eorpaigh údarú do na páirtithe is Páirtithe Conarthacha sa Chonradh seo a iarraidh ar an gCoimisiún Eorpach agus ar an mBanc Ceannais Eorpach ("BCE") na cúraimí dá bhforáiltear sa Chonradh seo a fheidhmiú.

(11) Sa ráiteas uaidh an 28 Samhain 2010, dhearbhaigh an Grúpa Euro go ndéanfar clásail chomhghníomhaíochta ("CCGanna") a bheidh caighdeánaithe agus comhionann a áireamh i dtéarmaí agus i gcoinníollacha bhannaí rialtais nua uile an limistéir euro, ionas go ndéanfar leachtacht an mhargaidh a chaomhnú. Faoi mar a d'iarr an Chomhairle Eorpach an 25 Márta 2011, rinne an Coiste Sóisialta agus Eacnamaíoch na socruithe dlíthiúla mionsonraithe lena n-áireofar CCGanna in urrúis rialtais an limistéir euro a thabhairt chun críche.

(12) I gcomhréir le cleachtas CAI agus i gcásanna eisceachtúla, déanfar foirm rannpháirtíochta leordhóthanaí agus comhréirí ag an earnáil phríobháideach a bhreithniú i gcásanna ina ndéantar tacaíocht chobhsaíochta a sholáthar agus coinníollacht ag gabháil ina teannta i bhfoirm cláir coigeartuithe maicreacnamaíocha.

(13) Fearacht CAI, soláthróidh SCE tacaíocht chobhsaíochta do Chomhalta de SCE nuair nach mbeidh gnáthrochtain rialta aige ar mhaoiniú margaidh nó nuair atá priacal ann go dtarlóidh sin. I bhfianaise an méid sin, dúirt na Ceannairí Stáit nó Rialtais go mbeidh stádas mar chreidiúnaí tosaíochta ag iasachtaí SCE ar bhealach atá comhchosúil leis an mbealach ina bhfuil an stádas sin ag iasachtaí CAI, ach glacann siad leis freisin go mbeidh stádas mar chreidiúnaí tosaíochta ag CAI ar SCE. Beidh éifeacht leis an stádas sin amhail ar an dáta a thiocfaidh an Conradh seo i bhfeidhm. I gcás ina mbeidh cúnamh airgeadais SCE i bhfoirm iasachtaí SCE ann tar éis cláir cúnaimh airgeadais atá ann tráth sínithe an Chonartha seo, beidh ag SCE an tsinsearacht chéanna a bheidh ag iasachtaí agus oibleagáidí uile eile an Chomhalta de SCE is tairbhí, seachas iasachtaí CAI.

(14) Tacóidh Ballstáit an limistéir euro le deonú stádais choibhéisigh mar chreidiúnaí do SCE agus do Stáit eile a thabharfaidh iasachtaí déthaobhacha i gcomhar le SCE.

(15) Maidir le coinníollacha iasachtóireachta SCE le haghaidh Ballstát atá faoi réir cláir coigeartuithe maicreacnamaíocha, lena n-áirítear iad sin dá dtagraítear in Airteagal 40 den Chonradh seo, déanfaidh siad costais

maoinithe agus oibriúcháin SCE a chumhdach agus ba cheart go mbeidís comhsheasmhach le coinníollacha iasachtóireachta na gComhaontuithe Saoráide Cúnaimh Airgeadais arna síniú idir SaorCAE, Éire agus Banc Ceannais na hÉireann ar thaobh amháin agus SaorCAE, Poblacht na Portaingéile agus Banco de Portugal ar an taobh eile.

(16) Ba cheart díospóidí a eascróidh idir na Páirtithe Conarthacha nó idir na Páirtithe Conarthacha agus SCE maidir le léiriú agus cur i bhfeidhm an Chonartha seo a chur faoi bhráid dhlínse Chúirt Bhreithiúnais an Aontais Eorpaigh, i gcomhréir le hAirteagal 273 den Chonradh ar Fheidhmiú an Aontais Eorpaigh ("CFAE").

(17) Déanfaidh an Coimisiún Eorpach agus Comhairle an Aontais Eorpaigh faireachas iarchláir faoi chuimsiú an chreata a leagtar síos in Airteagal 121 agus Airteagal 136 CFAE,

TAR ÉIS COMHAONTÚ MAR A LEANAS:

CAIBIDIL 1

COMHALTAS AGUS CUSPÓIR

AIRTEAGAL 1

Bunú agus comhaltaí

1. Leis an gConradh seo, déanann na Páirtithe Conarthacha institiúid idirnáisiúnta airgeadais, ar a dtabharfar "an Sásra Cobhsaíochta Eorpach" ("SCE"), a bhunú eatarthu féin.

2. Is Comhaltaí de SCE na Páirtithe Conarthacha.

AIRTEAGAL 2

Comhaltaí nua

1. Beidh comhaltas de SCE ar oscailt do na Ballstáit eile den Aontas Eorpach ón tráth a thiocfaidh an cinneadh ó Chomhairle an Aontais Eorpaigh, arna ghlacadh i gcomhréir le hAirteagal 140(2) CFAE, i bhfeidhm, ar cinneadh é lena n-aisghairtear an maolú atá ag na Ballstáit sin gan an euro a ghlacadh.

2. Maidir le Comhaltaí nua de SCE, ligfear isteach iad faoi na téarmaí agus na coinníollacha céanna atá ag Comhaltaí reatha de SCE, i gcomhréir le hAirteagal 44.

3. Gheobhaidh Comhalta nua a aontaíonn do SCE tar éis a bhunaithe scaireanna in SCE mar mhalairt ar a ranníoc caipitiúil, arna ríomh i gcomhréir leis an treoir ranníoca dá bhforáiltear in Airteagal 11.

AIRTEAGAL 3

Cuspóir

Is é is cuspóir do SCE cistiú a shlógadh agus tacaíocht chobhsaíochta a sholáthar, faoi choinníollacht dhocht, a bheidh cuí don ionstraim cúnaimh airgeadais a roghnófar, chun leasa Comhaltaí de SCE a bhfuil deacrachtaí móra maoinithe acu nó a bhfuil deacrachtaí móra maoinithe ag bagairt orthu, má tá na nithe sin fíor-riachtanach chun cobhsaíocht airgeadais an

limistéir euro ina iomláine agus a Bhallstát a choimirciú. Chun na críche sin, beidh SCE i dteideal cistí a thiomsú trí ionstraimí airgeadais a eisiúint nó trí theacht ar chomhaontuithe nó ar shocruithe airgeadais nó eile le Comhaltaí de SCE, le hinstitiúidí airgeadais nó le trí ú páirtithe eile.

CAIBIDIL 2

RIALACHAS

AIRTEAGAL 4

Struchtúr agus rialacha vótála

1. Beidh Bord Rialtóirí agus Bord Stiúrthóirí, maille le Stiúrthóir Bainistíochta agus foireann eile dá chuid féin ag SCE de réir mar a mheasfar is gá.

2. Déanfar cinntí an Bhoird Rialtóirí agus an Bhoird Stiúrthóirí de thoil a chéile, trí thromlach cáilithe nó trí thromlach simplí, mar a shonraítear sa Chonradh seo. Maidir leis na cinntí uile a dhéanfar, ní mór córam 2/3 de na comhaltaí a bhfuil cearta vótála acu, atá in ionannas do 2/3 ar a laghad de na cearta vótála, a bheith i láthair.

3. Chun cinneadh de thoil a chéile a ghlacadh, is gá aontoilíocht na gcomhaltaí a ghlacfaidh páirt sa vóta. Ní chuirfidh staonadh ó vótáil bac ar chinneadh a ghlacadh de thoil a chéile.

4. De mhaolú ar mhír 3, déanfar nós imeachta vótála éigeandála a úsáid i gcásanna ina dtagann an Coimisiún Eorpach agus BCE araon ar an tátal go mbeadh bagairt ann ar inmharthanacht eacnamaíoch agus airgeadais an limistéir euro má mhainnítear cinneadh a ghlacadh go práinneach chun cúnamh airgeadais, arna shainmhíniú in Airteagail 13 go 18, a dheonú nó a chur chun feidhme. Is gá tromlach cáilithe 85 % de na vótaí a caitheadh le go bhféadfaidh an Bord Rialtóirí agus an Bord Stiúrthóirí cinneadh dá dtagraítear i bpointí (f) agus (g) d'Airteagal 5(6) a ghlacadh de thoil a chéile faoin nós imeachta éigeandála sin.

I gcás ina n-úsáidtear an nós imeachta éigeandála dá dtagraítear sa chéad fhomhír, déantar aistriú ón gcúlchiste agus/nó ón gcaipiteal íoctha chuig cúlchiste éigeandála chun maolán tiomanta a chruthú chun na priacail a eascraíonn as an tacaíocht airgeadais a dheonaítear faoin nós imeachta éigeandála sin a chumhdach. Féadfaidh an Bord Rialtóirí a chinneadh an cúlchiste éigeandála a chealú agus a bhfuil ann a aistriú ar ais chuig an gcúlchiste agus/nó chuig an gcaipiteal íoctha.

5. Chun cinneadh a ghlacadh trí thromlach cáilithe, is gá ochtó faoin gcéad (80 %) de na vótaí a caitheadh.

6. Chun cinneadh a ghlacadh trí thromlach simplí, is gá tromlach na vótaí a caitheadh.

7. Beidh cearta vótála gach Comhalta de SCE, mar a fheidhmeoidh a cheapaí nó ionadaí an cheapaí ar an mBord Rialtóirí nó ar an mBord Stiúrthóirí iad, cothrom le líon na scaireanna a leithroinneadh ar an gComhalta sin i stoc caipitiúil údaraithe SCE mar a leagtar amach in Iarscríbhinn II.

8. Má mhainníonn aon Chomhalta de SCE aon chuid den mhéid atá dlite maidir lena oibleagáidí a íoc i ndáil leis na scaireanna íoctha nó na glaonna caipitil faoi Airteagal 8, Airteagal 9 agus Airteagal 10, nó i ndáil le haisíoc an chúnaimh airgeadais faoi Airteagal 16 nó Airteagal 17, ní bheidh sé de chead ag an gComhalta sin aon chearta vótála dá chuid a fheidhmiú fad a mhairfidh

an mhainneachtain sin. Déanfar na tairseacha vótála a athríomh dá réir sin.

AIRTEAGAL 5

An Bord Rialtóirí

1. Ceapfaidh gach Comhalta de SCE Rialtóir agus Rialtóir malartach. Beidh na ceapacháin sin in-chúlghairthe tráth ar bith. Is comhalta de rialtas an Chomhalta sin de SCE atá freagrach as airgeadas a bheidh ina Rialtóir. Beidh lánchumhacht ag an Rialtóir malartach gníomhú thar ceann an Rialtóra nuair nach bhfuil an Rialtóir i láthair.

2. Déanfaidh an Bord Rialtóirí cinneadh i dtaobh an rachaidh Uachtarán an Ghrúpa Euro, dá dtagraítear i bPrótacal (Uimh. 14) maidir leis an nGrúpa Euro atá i gceangal leis an gConradh ar an Aontas Eorpach agus le CFAE, i gceannas air nó an dtoghfaidh an Bord Rialtóirí Cathaoirleach agus Leaschathaoirleach as measc a chuid comhaltaí le haghaidh téarma dhá bhliain. Féadfar an Cathaoirleach agus an Leaschathaoirleach a atoghadh. Eagrófar toghchán nua gan mhoill mura bhfuil an fheidhm is gá le haghaidh ainmniúcháin mar Rialtóir ag an sealbhóir oifige a thuilleadh.

3. Féadfaidh an Comhalta den Choimisiún Eorpach atá i bhfeighil gnóthaí eacnamaíocha agus airgeadaíochta agus Uachtarán BCE, mar aon le hUachtarán an Ghrúpa Euro (murab é nó í an Cathaoirleach agus mura Rialtóir é nó í), páirt a ghlacadh i gcruinnithe an Bhoird Rialtóirí i gcáil breathnóirí.

4. Maidir le hionadaithe Ballstát nach den limistéar euro a ghlacfaidh páirt ar bhonn ad hoc i gcomhar le SCE in oibríocht tacaíochta cobhsaíochta do Bhallstát den limistéar euro, iarrfar orthu freisin páirt a ghlacadh, i gcáil breathnóirí, i gcruinnithe an Bhoird Rialtóirí nuair a phléifear an tacaíocht chobhsaíochta sin agus an faireachán a dhéanfar uirthi.

5. Féadfaidh an Bord Rialtóirí a iarraidh ar dhaoine eile, lena n-áirítear ionadaithe de chuid institiúidí nó eagraíochtaí, amhail CAI, freastal, i gcáil breathnóirí, ar chruinnithe ar bhonn ad hoc.

6. Déanfaidh an Bord Rialtóirí na cinntí seo a leanas de thoil a chéile:

(a) an cúlchiste éigeandála a chealú agus a bhfuil ann a aistriú ar ais chuig an gcúlchiste agus/nó chuig an gcaipiteal íoctha, i gcomhréir le hAirteagal 4(4);

(b) scaireanna nua a eisiúint faoi théarmaí seachas téarmaí ar par, i gcomhréir le hAirteagal 8(2);

(c) na glaonna caipitil a dhéanamh, i gcomhréir le hAirteagal 9(1);

(d) an stoc caipitiúil údaraithe a athrú agus uasmhéid na hiasachtóireachta ó SCE a oiriúnú, i gcomhréir le hAirteagal 10(1);

(e) nuashonrú ionchasach ar an treoir le haghaidh shuibscríobh chaipiteal BCE a chur i gcuntas, i gcomhréir le hAirteagal 11(3), agus na hathruithe a bheidh le déanamh ar Iarscríbhinn I a chur i gcuntas, i gcomhréir le hAirteagal 11(6);

(f) tacaíocht chobhsaíochta ó SCE a sholáthar, lena n-áirítear an choinníollacht i dtaca le beartas eacnamaíoch arna lua sa mheabhrán tuisceana dá dtagraítear in Airteagal 13(3), agus an rogha ionstraimí agus na téarmaí

airgeadais agus na coinníollacha a bhunú, i gcomhréir le hAirteagail 12 go 18;

(g) sainordú a thabhairt don Choimisiún Eorpach an choinníollacht i dtaca le beartas eacnamaíoch a bheidh ag gabháil le gach cúnamh airgeadais i gcomhréir le hAirteagal 13(3), a chaibidil, i gcuibhreann le BCE;

(h) an beartas praghsála agus an treoirlíne praghsála le haghaidh cúnaimh airgeadais a athrú, i gcomhréir le hAirteagal 20;

(i) liosta na n-ionstraimí cúnaimh airgeadais a fhéadfaidh SCE a úsáid a athrú, i gcomhréir le hAirteagal 19;

(j) na módúlachtaí a bhunú maidir le haistriú na tacaíochta ó SaorCAE go dtí SCE, i gcomhréir le hAirteagal 40;

(k) an t-iarratas ar chomhaltas de SCE ag comhaltaí nua, dá dtagraítear in Airteagal 44, a fhormheas;

(l) oiriúnuithe a dhéanamh ar an gConradh seo de thoradh díreach ar aontachas comhaltaí nua, lena n-áirítear athruithe a bheidh le déanamh ar dháileadh an chaipitil ar Chomhaltaí SCE agus dáileadh den sórt sin a ríomh de thoradh díreach ar aontachas comhalta nua do SCE, i gcomhréir le hAirteagal 44; agus

(m) na cúraimí a liostaítear san Airteagal seo a tharmligean chuig an mBord Stiúrthóirí.

7. Déanfaidh an Bord Rialtóirí na cinntí seo a leanas trí thromlach cáilithe:

(a) téarmaí teicniúla agus mionsonraithe aontachais comhalta nua le SCE a leagan amach, i gcomhréir le hAirteagal 44;

(b) cinneadh i dtaobh Uachtarán an Ghrúpa Euro do dhul i gceannas air nó Cathaoirleach agus Leaschathaoirleach an Bhoird Rialtóirí a thoghadh, trí thromlach cáilithe, i gcomhréir le mír 2;

(c) fodhlíthe SCE agus na rialacha nóis imeachta is infheidhme maidir leis an mBord Rialtóirí agus leis an mBord Stiúrthóirí (lena n-áirítear an ceart chun coistí agus fochomhlachtaí a bhunú) a leagan amach, i gcomhréir le mír 9;

(d) liosta na ngníomhaíochtaí atá ar neamhréir le dualgais Stiúrthóra nó Stiúrthóra mhalartaigh a chinneadh, i gcomhréir le hAirteagal 6(8);

(e) an Stiúrthóir Bainistíochta a cheapadh agus deireadh a chur le téarma oifige an Stiúrthóra Bainistíochta, i gcomhréir le hAirteagal 7;

(f) cistí eile a bhunú, i gcomhréir le hAirteagal 24;

(g) na gníomhaíochtaí a dhéanfar chun fiach a ghnóthú ó Chomhalta de SCE, i gcomhréir le hAirteagal 25(2) agus (3);

(h) cuntais bhliantúla SCE a fhormheas, i gcomhréir le hAirteagal 27(1);

(i) comhaltaí an Bhoird Iniúchóirí a cheapadh, i gcomhréir le hAirteagal 30(1);

(j) na hiniúchóirí seachtracha a fhormheas, i gcomhréir le hAirteagal 29;

(k) an díolúine atá ag Cathaoirleach an Bhoird Rialtóirí, ag Rialtóir, ag Rialtóir malartach, ag Stiúrthóir, ag Stiúrthóir malartach nó ag an Stiúrthóir Bainistíochta a tharscaoileadh, i gcomhréir le hAirteagal 35(2);

(l) an córas cánachais is infheidhme maidir le foireann SCE a chinneadh, i gcomhréir le hAirteagal 36(5);

(m) díospóid, i gcomhréir le hAirteagal 37(2); agus

(n) aon chinneadh eile is gá agus nach bhforáiltear dó go sainráite leis an gConradh seo.

8. Is é nó is í an Cathaoirleach a chomórfaidh cruinnithe an Bhoird Rialtóirí agus a bheidh i gceannas ar na cruinnithe sin. Beidh an Leaschathaoirleach i gceannas ar na cruinnithe sin aon uair nach mbeidh an Cathaoirleach in ann páirt a ghlacadh iontu.

9. Déanfaidh an Bord Rialtóirí a rialacha nóis imeachta agus fodhlíthe SCE a ghlacadh.

AIRTEAGAL 6

An Bord Stiúrthóirí

1. Ceapfaidh gach Rialtóir Stiúrthóir amháin agus Stiúrthóir malartach amháin as measc daoine a bhfuil ard-inniúlacht acu i gcúrsaí eacnamaíocha agus airgeadais. Is ceapacháin a bheidh in-chúlghairthe tráth ar bith na ceapacháin sin. Beidh lánchumhacht ag na Stiúrthóirí malartacha gníomhú thar ceann an Stiúrthóra nuair nach bhfuil an Stiúrthóir i láthair.

2. Féadfaidh an Comhalta den Choimisiún Eorpach atá i bhfeighil gnóthaí eacnamaíocha agus airgeadaíochta agus Uachtarán BCE breathnóir amháin an duine a cheapadh.

3. Maidir le hionadaithe Ballstát nach den limistéar euro a ghlacfaidh páirt ar bhonn ad hoc i gcomhar le SCE in oibríocht cúnaimh airgeadais le haghaidh Ballstáit den limistéar euro, iarrfar orthu freisin páirt a ghlacadh, i gcáil breathnóirí, i gcruinnithe an Bhoird Rialtóirí nuair a phléifear an cúnamh airgeadais sin agus an faireachán a dhéanfar air.

4. Féadfaidh an Bord Rialtóirí a iarraidh ar dhaoine eile, lena n-áirítear ionadaithe de chuid institiúidí nó eagraíochtaí, freastal, i gcáil breathnóirí, ar chruinnithe ar bhonn ad hoc.

5. Is trí thromlach cáilithe a dhéanfaidh an Bord Stiúrthóirí cinntí, mura ndeirtear a mhalairt sa Chonradh seo. Maidir le cinntí a ghlacfar ar bhonn cumhachtaí arna dtarmligean ag an mBord Rialtóirí, is i gcomhréir leis na rialacha vótála iomchuí a leagtar amach in Airteagal 5(6) agus (7) a ghlacfar iad.

6. Gan dochar do chumhachtaí an Bhoird Rialtóirí mar atá leagtha amach in Airteagal 5, áiritheoidh an Bord Stiúrthóirí go ndéanfar SCE a reáchtáil i gcomhréir leis an gConradh seo agus le fodhlíthe SCE, arna nglacadh ag an mBord Rialtóirí. Déanfaidh an Bord cinntí de réir mar a fhoráiltear sa Chonradh seo nó cinntí a bheidh tarmligthe chuige ag an mBord Rialtóirí.

7. Déanfar aon fholúntas ar an mBord Stiúrthóirí a líonadh láithreach i gcomhréir le mír 1.

8. Leagfaidh an Bord Rialtóirí síos na gníomhaíochtaí sin atá ar neamhréir le dualgais Stiúrthóra nó Stiúrthóra mhalartaigh, agus leagfaidh sé síos freisin fodhlíthe SCE agus rialacha nóis imeachta an Bhoird Stiúrthóirí.

AIRTEAGAL 7

An Stiúrthóir Bainistíochta

1. Ceapfaidh an Bord Rialtóirí an Stiúrthóir Bainistíochta as measc iarrthóirí ag a bhfuil náisiúntacht Comhalta de SCE, taithí iomchuí idirnáisiúnta agus ardleibhéal inniúlachta i gcúrsaí eacnamaíocha agus airgeadais. Fad a shealbhóidh an Stiúrthóir Bainistíochta oifig, ní ceadmhach dó nó di a bheith ina Rialtóir ná ina Stiúrthóir ná ina mhalartach nó ina malartach do cheachtar díobh.

2. Cúig bliana a bheidh i dtéarma oifige an Stiúrthóra Bainistíochta. Féadfar é nó í a athcheapadh uair amháin. Scoirfidh an Stiúrthóir Bainistíochta dá oifig nó dá hoifig a shealbhú, áfach, nuair a chinnfidh an Bord Rialtóirí amhlaidh.

3. Is é nó is í an Stiúrthóir Bainistíochta a bheidh i gceannas ar chruinnithe an Bhoird Stiúrthóirí agus glacfaidh sé nó sí páirt i gcruinnithe an Bhoird Rialtóirí.

4. Is é nó is í an Stiúrthóir Bainistíochta a bheidh ina cheann nó ina ceann ar fhoireann SCE. Beidh sé nó sí freagrach as foireann a eagrú, a cheapadh agus a dhífhostú i gcomhréir le rialacha foirne a ghlacfaidh an Bord Stiúrthóirí.

5. Is é nó is í an Stiúrthóir Bainistíochta ionadaí dlíthiúil SCE agus seolfaidh sé nó sí, faoi stiúir an Bhoird Stiúrthóirí, gnó reatha SCE.

CAIBIDIL 3

CAIPITEAL

AIRTEAGAL 8

Stoc caipitiúil údaraithe

1. Is é EUR 701 935.3 milliún a bheidh sa stoc caipitiúil údaraithe. Roinnfear é i seacht milliún, naoi míle dhéag, trí chéad caoga a trí scair a mbeidh luach ainmniúil EUR 100 000 an ceann orthu agus a bhféadfar a shuibscríobh de réir na treorach rannóca tosaigh dá bhforáiltear in Airteagal 11 agus a ríomhtar in Iarscríbhinn I.

2. Roinnfear an stoc caipitiúil údaraithe i scaireanna íoctha agus i scaireanna inghlaoite. EUR 80 221.2 milliún a bheidh i luach ainmniúil comhiomlán tosaigh iomlán na scaireanna íoctha. Déanfar scaireanna stoic chaipitiúil údaraithe a suibscríobhadh i dtosach a eisiúint ar par. Eiseofar scaireanna eile ar par, mura rud é go gcinnfidh an Bord Rialtóirí iad a eisiúint faoi théarmaí eile in imthosca speisialta.

3. Ní chuirfear scaireanna stoic chaipitiúil údaraithe faoi eire ná i ngeall ar shlí ar bith ná ní bheidh siad inaistrithe, cé is moite d'aistrithe ar mhaithe le coigeartuithe ar an treoir rannóca dá bhforáiltear in Airteagal 11 a chur chun feidhme a mhéid is gá lena áirithiú go bhfreagraíonn dáileadh na scaireanna don treoir choigeartaithe.

4. Gabhann Comhaltaí SCE orthu féin leis seo, go neamh-inchúlghairthe agus gan choinníoll, a rannóc leis an stoc caipitiúil údaraithe a sholáthar i gcomhréir lena dtreoir rannóca in Iarscríbhinn I. Freastalóidh siad go tráthúil do na glaonna caipitiúla uile i gcomhréir leis na téarmaí a leagtar amach sa Chonradh seo.

5. Beidh dliteanas gach Comhalta de SCE teoranta, i ngach aon chás, dá sciar den stoc caipitiúil údaraithe ar a phraghas eisiúna. Ní bheidh aon Chomhalta de SCE faoi dhliteanas, de bhíthin a chomhaltais, i leith oibleagáidí de chuid SCE. Ní dhéanfar difear d'oibleagáidí Comhaltaí de SCE ranníoc a dhéanamh leis an stoc caipitiúil údaraithe i gcomhréir leis an gConradh seo más rud é go dtiocfaidh aon Chomhalta den sórt sin chun bheith cáilithe chun cúnamh airgeadais a fháil ó SCE, nó más rud é go bhfuil cúnamh airgeadais á fháil aige ó SCE.

AIRTEAGAL 9

Glaonna caipitil

1. Féadfaidh an Bord Rialtóirí caipiteal údaraithe neamhíoctha a ghlaoch tráth ar bith agus tréimhse chuí a shocrú chun go n-íocfaidh Comhaltaí SCE é.

2. Féadfaidh an Bord Stiúrthóirí caipiteal údaraithe neamhíoctha a ghlaoch trí chinneadh tromlaigh shimplí chun leibhéal an chaipitil íoctha a aisiriú má thagann laghdú, trí chaillteanais a iompar, ar mhéid an chaipitil íoctha faoi bhun an leibhéil a bhunaítear in Airteagal 8(2), ar leibhéal é a bhféadfaidh an Bord Rialtóirí é a leasú de réir an nóis imeachta dá bhforáiltear in Airteagal 10, agus tréimhse chuí a shocrú chun go n-íocfaidh Comhaltaí SCE é.

3. Déanfaidh an Stiúrthóir Bainistíochta caipiteal údaraithe neamhíoctha a ghlaoch go tráthúil más gá sin chun go seachnóidh SCE mainneachtain ag SCE i leith aon oibleagáide íocaíochta sceidealta nó oibleagáide íocaíochta eile atá dlite do chreidiúnaithe SCE. Cuirfidh an Stiúrthóir Bainistíochta an Bord Stiúrthóirí agus an Bord Rialtóirí ar an eolas maidir le haon ghlaoch den sórt sin. Nuair a bhraitear go bhféadfadh gannchion a bheith ann i gcistí SCE, déanfaidh an Stiúrthóir Bainistíochta an glaoch nó na glaonna sin ar chaipiteal a luaithe is féidir chun a áirithiú go mbeidh a dhóthain cistí ag SCE chun freastal d' íocaíochtaí atá dlite do chreidiúnaithe ina n-iomláine ar a ndáta dlite. Gabhann Comhaltaí SCE orthu féin leis seo, go neamh-inchúlghairthe agus gan choinníoll, aon ghlaoch ar chaipiteal a dhéanfaidh an Stiúrthóir Bainistíochta orthu a íoc ar éileamh a fháil de bhun na míre seo, ar éileamh é atá le híoc laistigh de sheacht lá ón tráth a gheofar é.

4. Glacfaidh an Bord Stiúrthóirí na téarmaí agus na coinníollacha mionsonraithe a mbeidh feidhm leo maidir le glaonna ar chaipiteal de bhun an Airteagail seo.

AIRTEAGAL 10

Athruithe ar an stoc caipitiúil údaraithe

1. Déanfaidh an Bord Rialtóirí uasmhéid na hiasachtóireachta ó SCE agus leordhóthanacht stoc caipitiúil údaraithe SCE a athbhreithniú go rialta agus gach cúig bliana ar a laghad. Féadfaidh sé a chinneadh an stoc caipitiúil údaraithe a athrú agus Airteagal 8 agus Iarscríbhinn II a leasú dá réir. Tiocfaidh an cinneadh sin i bhfeidhm a luaithe a bheidh fógra tugtha ag Comhaltaí SCE don Taiscí á rá go bhfuil a nósanna imeachta náisiúnta is infheidhme tugtha i gcrích. Déanfar na scaireanna nua a leithroinnt ar Chomhaltaí SCE i gcomhréir leis an treoir ranníoca dá bhforáiltear in Airteagal 11 agus in Iarscríbhinn I.

2. Glacfaidh an Bord Stiúrthóirí na téarmaí agus na coinníollacha mionsonraithe a mbeidh feidhm leo maidir leis na hathruithe uile ar chaipiteal nó le haon athruithe ar chaipiteal a dhéanfar faoi mhír 1.

3. Tráth a thiocfaidh Ballstát den Aontas Eorpach chun bheith ina Chomhalta nua de SCE, déanfar stoc caipitiúil údaraithe SCE a mhéadú sa ghnáthchúrsa trí na méideanna faoi seach a bhí i réim an tráth sin a iolrú faoin gcóimheas, laistigh den treoir rannícoa choigeartaithe dá bhforáiltear in Airteagal 11, idir ualú an Chomhalta nua de SCE agus ualú na gComhaltaí láithreacha de SCE.

AIRTEAGAL 11

Treoir rannícoa

1. Faoi réir mhír 2 agus mhír 3, déanfar an treoir rannícoa le haghaidh shuibscríobh stoc caipitiúil údaraithe SCE a bhunú ar an treoir le haghaidh shuibscríobh chaipiteal BCE ag bainc cheannais náisiúnta Chomhaltaí SCE de bhun Airteagal 29 de Phrótacal (Uimh. 4) maidir le Reacht an Chórais Eorpaigh Banc Ceannais agus an Bhainc Ceannais Eorpaigh ("Reacht CEBC") atá i gceangal leis an gConradh ar an Aontas Eorpach agus CFAE.

2. Tá an treoir rannícoa le haghaidh shuibscríobh stoc caipitiúil údaraithe SCE sonraithe in Iarscríbhinn I.

3. Déanfar an treoir rannícoa le haghaidh shuibscríobh stoc caipitiúil údaraithe SCE a choigeartú:

(a) nuair a thagann Ballstát den Aontas Eorpach chun bheith ina Chomhalta nua de SCE agus nuair a thagann méadú sa ghnáthchúrsa ar stoc caipitiúil údaraithe SCE, mar a shonraítear in Airteagal 10(3); nó

(b) nuair a thagann deireadh leis an gceartú sealadach dhá bhliain déag is infheidhme maidir le Comhalta de SCE agus a bunaíodh i gcomhréir le hAirteagal 42.

4. Féadfaidh an Bord Rialtóirí a chinneadh nuashonruithe ionchasacha ar an treoir le haghaidh shuibscríobh chaipiteal BCE dá dtagraítear i mír 1 a chur i gcuntas nuair a dhéantar an treoir rannícoa a choigeartú i gcomhréir le mír 3 nó nuair a thagann athrú ar an stoc caipitiúil údaraithe, mar a shonraítear in Airteagal 10(1).

5. Nuair a dhéantar an treoir rannícoa le haghaidh shuibscríobh stoic chaipitiúil údaraithe SCE a choigeartú, aistreoidh Comhaltaí SCE stoc caipitiúil údaraithe eatarthu féin a mhéid is gá chun a áirithiú go bhfreagraíonn dáileadh an stoic chaipitiúil údaraithe don treoir choigeartaithe.

6. Déanfar Iarscríbhinn I a leasú ar chinneadh ón mBord Rialtóirí maidir le haon choigeartú dá dtagraítear san Airteagal seo.

7. Déanfaidh an Bord Stiúrthóirí gach beart eile is gá chun an tAirteagal seo a chur i bhfeidhm.

CAIBIDIL 4

OIBRÍOCHTAÍ

AIRTEAGAL 12

Prionsabail

1. Más rud é go bhfuil sé sin fíor-riachtanach chun cobhsaíocht airgeadais an limistéir euro ina iomláine agus a Bhallstát a choimirciú, féadfaidh SCE tacaíocht chobhsaíochta a sholáthar do Chomhalta de SCE, faoi réir coinníollachta doichte, a bheidh cuí don ionstraim cúnaimh airgeadais a roghnófar. Féadfaidh coinníollacht den sórt sin a bheith sa réimse idir clár coigeartuithe maicreacnamaíocha agus urramú leanúnach coinníollacha incháilitheachta réamhbhunaithe.

2. Gan dochar d'Airteagal 19, féadfar tacaíocht chobhsaíochta SCE a dheonú trí na hionstraimí dá bhforáiltear in Airteagail 14 go 18.

3. Déanfar, amhail ar an 1 Eanáir 2013, clásail chomhghníomhaíochta a áireamh in urrúis rialtais nua uile an limistéir euro, a ngabhfaidh aibíocht níos faide ná bliain amháin leo, ar bhealach lena n-áirithítear gur toradh dlí comhionann a bheidh ag na clásail sin.

AIRTEAGAL 13

Nós imeachta chun tacaíocht chobhsaíochta a dheonú

1. Féadfaidh Comhalta de SCE iarraidh ar thacaíocht chobhsaíochta a dhíriú chuig Cathaoirleach an Bhoird Rialtóirí. Léireofar san iarraidh sin an ionstraim nó na hionstraimí cúnaimh airgeadais a bheidh le breithniú. Ar iarraidh den sórt sin a fháil, cuirfidh Cathaoirleach an Bhoird Rialtóirí de chúram ar an gCoimisiún Eorpach, i gcuibhreann le BCE:

(a) measúnú a dhéanamh i dtaobh an bhfuil priacal ann do chobhsaíocht airgeadais an limistéir euro ina iomláine nó a Bhallstát, mura bhfuil anailís curtha isteach cheana ag BCE faoi Airteagal 18;

(b) measúnú a dhéanamh i dtaobh an bhfuil an fiachas poiblí inbhuanaithe. I ngach cás inar cuí agus inar féidir, beifear ag súil go ndéanfar measúnú den sórt sin in éineacht le CAI;

(c) measúnú a dhéanamh ar riachtanais airgeadais iarbhír nó ionchasacha an Chomhalta de SCE lena mbaineann.

2. Ar bhonn iarraidh an Chomhalta de SCE agus an mheasúnaithe dá dtagraítear i mír 1, féadfaidh an Bord Rialtóirí a chinneadh tacaíocht chobhsaíochta a dheonú, i bprionsabal, don Chomhalta de SCE lena mbaineann, i bhfoirm saoráide cúnaimh airgeadais.

3. Má ghlactar cinneadh de bhun mhír 2, cuirfidh an Bord Rialtóirí de chúram ar an gCoimisiún Eorpach - i gcuibhreann le BCE agus, i ngach cás inar féidir, in éineacht le CAI - meabhrán tuisceana ("MT") ina ndéanfar mionsonrú ar an gcoinníollacht a bheidh ag gabháil leis an tsaoráid cúnaimh airgeadais a chaibidil leis an gComhalta de SCE lena mbaineann. Beidh inneachar an MT ag freagairt do dhéine na laigí a bhfuil aghaidh le tabhairt orthu agus don ionstraim cúnaimh airgeadais atá roghnaithe. An tráth céanna, ullmhóidh Stiúrthóir Bainistíochta SCE togra le haghaidh comhaontú um shaoráid cúnaimh airgeadais, lena n-áireofar na téarmaí airgeadais agus na coinníollacha, agus an rogha ionstraimí, a bheidh le glacadh ag an mBord Rialtóirí.

Beidh an MT i gcomhréir go hiomlán le bearta comhordaithe an bheartais eacnamaíoch dá bhforáiltear in CFAE, go háirithe le haon ghníomh de reachtaíocht an Aontais Eorpaigh, lena n-áirítear aon tuairim, aon fholáireamh, aon mholadh nó aon chinneadh a dhíreofar chuig an gComhalta de SCE lena mbaineann.

4. Síneoidh an Coimisiún Eorpach an MT thar ceann SCE, faoi réir na coinníollacha a leagtar amach i mír 3 a chomhlíonadh roimh ré agus faoi réir a fhormheasa roimh ré ag an mBord Rialtóirí.

5. Déanfaidh an Bord Stiúrthóirí an comhaontú um shaoráid cúnaimh airgeadais, ina dtabharfar mionsonraí i dtaobh na ngnéithe airgeadais a bhaineann leis an tacaíocht chobhsaíochta atá le deonú agus, i gcás inarb infheidhme, eisíocaíocht an chéad tráinse den chúnamh, a fhormheas.

6. Bunóidh SCE córas foláirimh chuí chun a áirithiú go bhfaighidh sé go tráthúil aon aisíocaíochtaí atá dlite den Chomhalta de SCE faoin tacaíocht chobhsaíochta.

7. Cuirfear de chúram ar an gCoimisiún Eorpach - i gcuibhreann le BCE agus, i ngach cás inar féidir, in éineacht le CAI - faireachán a dhéanamh ar chomhlíonadh na coinníollachta a bheidh ag gabháil leis an tsaoráid cúnaimh airgeadais.

AIRTEAGAL 14

Cúnamh airgeadais réamhchúraim SCE

1. Féadfaidh an Bord Rialtóirí a chinneadh cúnamh airgeadais réamhchúraim a dheonú i bhfoirm líne creidmheasa faoi choinníoll réamhchúraim nó i bhfoirm líne creidmheasa faoi choinníollacha breisithe i gcomhréir le hAirteagal 12(1).

2. Déanfar an choinníollacht a bheidh ag gabháil le cúnamh airgeadais réamhchúraim SCE a mhionsonrú san MT, i gcomhréir le hAirteagal 13(3).

3. Sonrófar na téarmaí airgeadais agus na coinníollacha a bhaineann le cúnamh airgeadais réamhchúraim SCE i gcomhaontú um shaoráid cúnaimh airgeadais réamhchúraim a bheidh le síniú ag an Stiúrthóir Bainistíochta.

4. Glacfaidh an Bord Stiúrthóirí na treoirlínte mionsonraithe maidir leis na módúlachtaí chun cúnamh airgeadais réamhchúraim SCE a chur chun feidhme.

5. Déanfaidh an Bord Stiúrthóirí cinneadh, de thoil a chéile, ar thogra a fháil ón Stiúrthóir Bainistíochta agus tar éis tuarascáil a fháil ón gCoimisiún Eorpach i gcomhréir le hAirteagal 13(7), i dtaobh an amhlaidh ba cheart an líne chreidmheasa a choimeád.

6. Tar éis don Chomhalta de SCE cistí a tharraingt den chéad uair (trí iasacht nó trí cheannach ar an mbunmhargadh), déanfaidh an Bord Stiúrthóirí cinneadh, de thoil a chéile, ar thogra a fháil ón Stiúrthóir Bainistíochta agus bunaithe ar mheasúnú arna dhéanamh ag an gCoimisiún Eorpach, i gcuibhreann le BCE, i dtaobh an amhlaidh a leanann an líne chreidmheasa de bheith leordhóthanach nó i dtaobh an amhlaidh atá gá le cineál eile cúnaimh airgeadais.

AIRTEAGAL 15

Cúnamh airgeadais le haghaidh athchaipitliú institiúidí airgeadais de chuid Comhalta de SCE

1. Féadfaidh an Bord Rialtóirí a chinneadh cúnamh airgeadais a dheonú trí iasachtaí do Chomhalta de SCE go sonrach chun institiúidí airgeadais an Chomhalta sin de SCE a athchaipitliú.

2. Déanfar an choinníollacht a bheidh ag gabháil le cúnamh airgeadais le haghaidh athchaipitliú institiúidí airgeadais Comhalta de SCE a mhionsonrú san MT, i gcomhréir le hAirteagal 13(3).

3. Gan dochar d'Airteagal 107 agus Airteagal 108 CFAE, déanfar na téarmaí airgeadais agus na coinníollacha a bhaineann le cúnamh airgeadais le haghaidh athchaipitliú institiúidí airgeadais Comhalta de SCE a shonrú i gcomhaontú um shaoráid cúnaimh airgeadais a bheidh le síniú ag an Stiúrthóir Bainistíochta.

4. Glacfaidh an Bord Stiúrthóirí na treoirlínte mionsonraithe maidir leis na módúlachtaí chun cúnamh airgeadais le haghaidh athchaipitliú institiúidí airgeadais Comhalta de SCE a chur chun feidhme.

5. I gcás inar infheidhme, déanfaidh an Bord Stiúrthóirí cinneadh, de thoil a chéile, ar thogra a fháil ón Stiúrthóir Bainistíochta agus tar éis tuarascáil a fháil ón gCoimisiún Eorpach i gcomhréir le hAirteagal 13(7), i dtaobh eisíocaíocht na dtráinsí den chúnamh airgeadais i ndiaidh an chéad tráinse.

AIRTEAGAL 16

Iasachtaí SCE

1. Féadfaidh an Bord Rialtóirí a chinneadh cúnamh airgeadais a dheonú i bhfoirm iasachta do Chomhalta de SCE, i gcomhréir le hAirteagal 12.

2. Beidh an choinníollacht a bheidh ag gabháil le hiasachtaí SCE ar áireamh i gclár coigeartuithe maicreacnamaíocha a bheidh mionsonraithe san MT, i gcomhréir le hAirteagal 13(3).

3. Sonrófar na téarmaí airgeadais agus na coinníollacha a bhaineann le gach iasacht SCE i gcomhaontú um shaoráid cúnaimh airgeadais a bheidh le síniú ag an Stiúrthóir Bainistíochta.

4. Glacfaidh an Bord Stiúrthóirí na treoirlínte mionsonraithe maidir leis na módúlachtaí chun iasachtaí SCE a chur chun feidhme.

5. Déanfaidh an Bord Stiúrthóirí cinneadh, de thoil a chéile, ar thogra a fháil ón Stiúrthóir Bainistíochta agus tar éis tuarascáil a fháil ón gCoimisiún Eorpach i gcomhréir le hAirteagal 13(7), i dtaobh eisíocaíocht na dtráinsí den chúnamh airgeadais i ndiaidh an chéad tráinse.

AIRTEAGAL 17

Saoráid tacaíochta bunmhargaidh

1. Féadfaidh an Bord Rialtóirí a chinneadh socrú a dhéanamh bannaí de chuid Comhalta de SCE a cheannach ar an mbunmhargadh, i gcomhréir le hAirteagal 12 agus é mar chuspóir leis costas-éifeachtúlacht an chúnaimh airgeadais a uasmhéadú.

2. Déanfar an choinníollacht a bheidh ag gabháil leis an tsaoráid tacaíochta bunmhargaidh a mhionsonrú san MT, i gcomhréir le hAirteagal 13(3).

3. Sonrófar na téarmaí airgeadais agus na coinníollacha faoina ndéanfar na bannaí a cheannach sa chomhaontú um shaoráid cúnaimh airgeadais a bheidh le síniú ag an Stiúrthóir Bainistíochta.

4. Glacfaidh an Bord Stiúrthóirí na treoirlínte mionsonraithe maidir leis na módúlachtaí chun an tsaoráid tacaíochta bunmhargaidh a chur chun feidhme.

5. Déanfaidh an Bord Stiúrthóirí cinneadh, de thoil a chéile, ar thogra a fháil ón Stiúrthóir Bainistíochta agus tar éis tuarascáil a fháil ón gCoimisiún Eorpach i gcomhréir le hAirteagal 13(7), i dtaobh eisíocaíocht an chúnaimh airgeadais le Ballstát is tairbhí trí oibríochtaí ar an mbunmhargadh.

AIRTEAGAL 18

Saoráid tacaíochta margaidh thánaistigh

1. Féadfaidh an Bord Rialtóirí a chinneadh socrú a dhéanamh le haghaidh oibríochtaí ar an margadh tánaisteach maidir le bannaí Comhalta de SCE i gcomhréir le hAirteagal 12(1).

2. Maidir le cinntí faoi idirghabhálacha ar an margadh tánaisteach chun aghaidh a thabhairt ar aicídiú, déanfar iad ar bhonn anailíse ó BCE lena n-aithnítear gurb ann do dhálaí eisceachtúla sa mhargadh airgeadais agus do phriacail do chobhsaíocht airgeadais.

3. Déanfar an choinníollacht a bheidh ag gabháil leis an tsaoráid tacaíochta margaidh thánaistigh a mhionsonrú san MT, i gcomhréir le hAirteagal 13(3).

4. Sonrófar na téarmaí airgeadais agus na coinníollacha faoina bhfuil na hoibríochtaí ar an margadh tánaisteach le déanamh i gcomhaontú um shaoráid cúnaimh airgeadais a bheidh le síniú ag an Stiúrthóir Bainistíochta.

5. Glacfaidh an Bord Stiúrthóirí na treoirlínte mionsonraithe maidir leis na módúlachtaí chun an tsaoráid tacaíochta margaidh thánaistigh a chur chun feidhme.

6. Déanfaidh an Bord Stiúrthóirí cinneadh, de thoil a chéile, ar thogra a fháil ón Stiúrthóir Bainistíochta, maidir le hoibríochtaí a thionscnamh ar an margadh tánaisteach.

AIRTEAGAL 19

Athbhreithniú ar liosta na n-ionstraimí cúnaimh airgeadais

Féadfaidh an Bord Rialtóirí athbhreithniú a dhéanamh ar liosta na n-ionstraimí cúnaimh airgeadais dá bhforáiltear in Airteagail 14 go 18 agus cinneadh a dhéanamh athruithe a dhéanamh ar an liosta sin.

AIRTEAGAL 20

Beartas praghsála

1. Le linn dó tacaíocht chobhsaíochta a dheonú, beidh sé mar chuspóir ag SCE a chostais maoinithe agus oibriúcháin a chumhdach go hiomlán agus cuirfidh sé corrlach cuí san áireamh.

2. I gcás gach ionstraime cúnaimh airgeadais, déanfar an phraghsáil a mhionsonrú i dtreoirlíne praghsála, ar treoirlíne í a ghlacfaidh an Bord Rialtóirí.

3. Féadfaidh an Bord Rialtóirí an beartas praghsála a athbhreithniú.

AIRTEAGAL 21

Oibríochtaí iasachtaíochta

1. Cumhachtófar do SCE iasachtaí a fháil ar na margaí caipitil ó bhainc, ó institiúidí airgeadais nó ó dhaoine nó ó institiúidí eile ar mhaithe lena chuspóir a chomhlíonadh.

2. Cinnfidh an Stiúrthóir Bainistíochta na módúlachtaí maidir leis na hoibríochtaí iasachtaíochta i gcomhréir le treoirlínte mionsonraithe atá le glacadh ag an mBord Stiúrthóirí.

3. Bainfidh SCE leas as uirlisí cuí bainistíochta priacail agus déanfaidh an Bord Stiúrthóirí athbhreithniú ar na huirlisí sin go rialta.

CAIBIDIL 5

BAINISTÍOCHT AIRGEADAIS

AIRTEAGAL 22

Beartas infheistíochta

1. Cuirfidh an Stiúrthóir Bainistíochta beartas stuama infheistíochta chun feidhme le haghaidh SCE chun an chreidmheasacht is airde a áirithiú do SCE, i gcomhréir le treoirlínte atá le glacadh, agus le hathbhreithniú go rialta, ag an mBord Stiúrthóirí. Beidh SCE i dteideal sciar den toradh ar a phunann infheistíochta a úsáid chun a chostais oibriúcháin agus riaracháin a chumhdach.

2. Comhlíonfaidh oibríochtaí SCE prionsabail na bainistíochta fónta airgeadais agus priacail.

AIRTEAGAL 23

Beartas díbhinne

1. Féadfaidh an Bord Stiúrthóirí a chinneadh, trí thromlach simplí, díbhinn a dháileadh ar Chomhaltaí SCE i gcás inar mó méid an chaipitil íoctha agus an chúlchiste ná an leibhéal is gá chun go ndéanfaidh SCE acmhainn iasachtóireachta a choimeád agus i gcás nach bhfuil gá leis na fáltais ón infheistíocht chun gannchion íocaíochta le creidiúnaithe a sheachaint. Déantar díbhinní a dháileadh pro rata de réir na ranníocaí leis an gcaipiteal íoctha, agus cuirfear an luathíocaíocht is féidir a dhéanamh, dá dtagraítear in Airteagal 41(3), san áireamh.

2. Fad nach bhfuil cúnamh airgeadais tugtha ag SCE d'aon chomhalta dá chuid, tabharfar na fáltais ó infheistiú chaipiteal íoctha SCE ar ais do Chomhaltaí SCE de réir a ranníocaí faoi seach leis an gcaipiteal íoctha, tar éis asbhaintí i leith costas oibriúcháin, ar choinníoll go bhfuil an acmhainn iarbhír iasachtóireachta sprice ar fáil go hiomlán.

3. Cuirfidh an Stiúrthóir Bainistíochta an beartas díbhinne le haghaidh SCE chun feidhme i gcomhréir le treoirlínte a ghlacfaidh an Bord Stiúrthóirí.

AIRTEAGAL 24

Cúlchiste agus cistí eile

1. Bunóidh an Bord Rialtóirí cúlchiste agus, i gcás gur cuí, cistí eile.

2. Gan dochar d'Airteagal 23, cuirfear i leataobh i gcúlchiste an glanioncam a chruthaigh oibríochtaí SCE agus na fáltais ó na smachtbhannaí airgeadais a fuarthas ó Chomhaltaí SCE faoin nós imeachta faireachais iltaobhaigh, faoin nós imeachta um easnamh iomarcach agus faoin nós imeachta um míchothromaíochtaí maicreacnamaíocha a bunaíodh faoi CFAE.

3. Déanfar acmhainní an chúlchiste a infheistiú i gcomhréir le treoirlínte a ghlacfaidh an Bord Stiúrthóirí.

4. Glacfaidh an Bord Stiúrthóirí cibé rialacha is gá chun cistí eile a bhunú, a riaradh agus a úsáid.

AIRTEAGAL 25

Caillteanais a chumhdach

1. Maidir le caillteanais a eascraíonn le linn oibríochtaí SCE, déanfar iad a mhuirearú:

(a) ar an gcéad dul síos, ar an gcúlchiste;

(b) ar an dara dul síos, ar an gcaipiteal íoctha; agus

(c) ar deireadh, ar mhéid cuí den chaipiteal údaraithe neamhíoctha, a ghlaofar i gcomhréir le hAirteagal 9(3).

2. Má mhainníonn Comhalta de SCE an íocaíocht faoi ghlaoch ar chaipiteal de bhun Airteagal 9(2) nó (3) a dhéanamh, cuirfear glaoch athmheasta méadaithe ar chaipiteal chuig Comhaltaí uile SCE chun a áirithiú go bhfaighidh SCE méid iomlán an chaipitil íoctha is gá. Déanfaidh an Bord Rialtóirí cinneadh ar ghníomhaíocht chuí chun a áirithiú go nglanfaidh an Comhalta de SCE lena mbaineann a fhiacha le SCE laistigh de thréimhse réasúnta ama. Beidh an Bord Rialtóirí i dteideal a cheangal go n-íocfar ús mainneachtana ar an méid atá thar téarma.

3. A luaithe a bheidh a fhiacha le SCE dá dtagraítear i mír 2 glanta ag Comhalta de SCE, aisíocfar an farasbarr caipitil le Comhaltaí eile SCE i gcomhréir le rialacha a ghlacfaidh an Bord Rialtóirí.

AIRTEAGAL 26

Buiséad

Déanfaidh an Bord Stiúrthóirí buiséad SCE a fhormheas gach bliain.

AIRTEAGAL 27

Cuntais bhliantúla

1. Is é an Bord Rialtóirí a dhéanfaidh cuntais bhliantúla SCE a fhormheas.

2. Foilseoidh SCE tuarascáil bhliantúil ina mbeidh ráiteas iniúchta ar a chuntais agus cuirfidh sé timpeall chuig Comhaltaí SCE ráiteas achomair ráithiúil ar a staid airgeadais agus ráiteas sochair agus dochair ina dtaispeánfar na torthaí a bhí ar a chuid oibríochtaí.

AIRTEAGAL 28

Iniúchóireacht inmheánach

Bunófar feidhm iniúchóireachta inmheánaí i gcomhréir le caighdeáin idirnáisiúnta.

AIRTEAGAL 29

Iniúchóireacht sheachtrach

Déanfaidh iniúchóirí seachtracha neamhspleácha, arna bhformheas ag an mBord Rialtóirí agus a bheidh freagrach as na ráitis airgeadais bhliantúla a dheimhniú, cuntais SCE a iniúchadh. Beidh lánchumhacht ag na hiniúchóirí seachtracha leabhair agus cuntais uile SCE a scrúdú agus faisnéis iomlán a fháil maidir lena hidirbhearta.

AIRTEAGAL 30

Bord Iniúchóirí

1. Beidh cúig chomhalta arna gceapadh ag an mBord Rialtóirí, mar gheall ar a n-inniúlacht i gcúrsaí iniúchóireachta agus airgeadais, ar an mBord Iniúchóirí agus beidh dhá chomhalta ó institiúidí uachtaracha iniúchóireachta Chomhaltaí SCE - agus uainíocht eatarthu - agus comhalta amháin ó Chúirt Iniúchóirí na hEorpa ina measc.

2. Beidh comhaltaí an Bhoird Iniúchóirí neamhspleách. Ní dhéanfaidh siad teagaisc a iarraidh ar chomhlachtaí rialaithe SCE, ar Chomhaltaí SCE ná ar aon chomhlacht poiblí nó príobháideach eile, ná a ghlacadh uathu.

3. Déanfaidh an Bord Iniúchóirí iniúchtaí neamhspleácha a tharraingt suas. Déanfaidh sé cigireacht ar chuntais SCE agus fíoróidh sé go bhfuil na cuntais oibriúcháin agus an clár comhardaithe in ord. Beidh rochtain iomlán aige ar aon doiciméad de chuid SCE is gá chun a chúraimí a chur i gcrích.

4. Féadfaidh an Bord Iniúchóirí, tráth ar bith, an Bord Stiúrthóirí a chur ar an eolas faoina fhionnachtana. Déanfaidh sé tuarascáil a tharraingt suas, ar bhonn bliantúil, ar tuarascáil í a chuirfear faoi bhráid an Bhoird Rialtóirí.

5. Cuirfidh an Bord Rialtóirí an tuarascáil bhliantúil ar fáil do na parlaimintí náisiúnta agus d'institiúidí uachtaracha iniúchóireachta Chomhaltaí SCE agus do Chúirt Iniúchóirí na hEorpa.

6. Déanfar aon ní a bhaineann leis an Airteagal seo a mhionsonrú i bhfodhlíthe SCE.

CAIBIDIL 6

FORÁLACHA GINEARÁLTA

AIRTEAGAL 31

Suíomh

1. Is i Lucsamburg a bheidh suíomh agus príomhoifig SCE.

2. Féadfaidh SCE oifig idirchaidrimh a bhunú sa Bhruiséil.

AIRTEAGAL 32

Stádas dlíthiúil, pribhléidí agus díolúintí

1. Chun a chumasú do SCE a chuspóir a chomhall, déanfar an stádas dlíthiúil agus na pribhléidí agus díolúintí a leagtar amach san Airteagal seo a thabhairt do SCE i gcríoch gach Comhalta de SCE. Déanfaidh SCE gach iarracht aitheantas a fháil dá stádas dlíthiúil agus dá phribhléidí agus díolúintí i gcríocha eile ina gcomhlíonann sé feidhmeanna nó ina bhfuil sócmhainní aige.

2. Beidh lánphearsantacht dhlítheanach ag SCE. Beidh láninniúlacht dhlítheanach aige chun:

(a) maoin dhochorraithe agus maoin shochorraithe a fháil agus a dhiúscairt;

(b) conradh a dhéanamh;

(c) a bheith ina pháirtí in imeachtaí dlíthiúla; agus

(d) dul i gcomhaontú ceanncheathrún agus/nó i bprótacail de réir mar is gá lena áirithiú go dtugtar aitheantas dá stádas dlíthiúil agus dá phribhléidí agus díolúintí, agus go bhforfheidhmítear na nithe sin.

3. Beidh ag SCE, a mhaoin, a chistiú agus a shócmhainní, cibé áit a mbeidh siad suite agus cibé duine ag a mbeidh siad, díolúine ó gach sórt próisis bhreithiúnaigh ach amháin a mhéid a bheidh SCE tar éis a dhíolúine a tharscaoileadh go sainráite chun críocha aon imeachtaí nó faoi théarmaí aon chonartha, lena n-áirítear doiciméid na n-ionstraimí maoinithe.

4. Beidh díolúine ó chuardach, ó fhoréileamh, ó choigistiú, ó dhíshealbhú nó aon sórt eile urghabhála, gabhála nó foriaimh trí ghníomhú feidhmiúcháin, gníomhú breithiúnach, gníomhú riaracháin nó gníomhú reachtach ag maoin, cistiú agus sócmhainní SCE, cibé áit a mbeidh siad suite agus cibé duine ag a mbeidh siad.

5. Beidh cartlanna SCE agus na doiciméid uile ar le SCE iad nó atá ina sheilbh aige dosháraithe.

6. Beidh áitreabh SCE dosháraithe.

7. Gheobhaidh cumarsáidí oifigiúla SCE an chóir chéanna ó gach Comhalta de SCE agus ó gach stát a bhfuil aitheantas tugtha aige do stádas dlíthiúil agus do phribhléidí agus díolúintí SCE agus a fhaigheann cumarsáidí oifigiúla Comhalta de SCE.

8. A mhéid is gá sin chun na gníomhaíochtaí dá bhforáiltear sa Chonradh seo a dhéanamh, beidh maoin, cistiú agus sócmhainní uile SCE saor ó shrianta, ó rialacháin, ó rialuithe agus ó mhortchairde de chineál ar bith.

9. Beidh SCE díolmhaithe ó aon cheanglas údarú nó ceadúnas a fháil mar institiúid chreidmheasa, mar sholáthróir seirbhísí infheistíochta nó mar eintiteas údaraithe, ceadúnaithe nó rialaithe eile faoi dhlíthe gach ceann de Chomhaltaí SCE.

AIRTEAGAL 33

Foireann SCE

Leagfaidh an Bord Stiúrthóirí síos na coinníollacha fostaíochta do Stiúrthóir Bainistíochta agus d'fhoireann eile SCE.

AIRTEAGAL 34

Rúndacht ghairmiúil

Ní dhéanfaidh Comhaltaí ná iarChomhaltaí an Bhoird Rialtóirí ná an Bhoird Stiúrthóirí ná aon daoine eile a oibríonn nó a d'oibrigh do SCE nó i dtaca le SCE faisnéis atá faoi réir rúndachta gairmiúla a nochtadh. Beidh de cheangal orthu, fiú amháin tar éis deireadh a theacht lena ndualgais, gan faisnéis a nochtadh is de chineál atá faoi chumhdach oibleagáid na rúndachta gairmiúla.

AIRTEAGAL 35

Díolúintí daoine

1. Ar mhaithe le leas SCE, beidh Cathaoirleach an Bhoird Rialtóirí, na Rialtóirí, na Rialtóirí malartacha, na Stiúrthóirí, na Stiúrthóirí malartacha, mar aon leis an Stiúrthóir Bainistíochta agus na daoine eile den fhoireann díolmhaithe ó imeachtaí dlíthiúla i leith gníomhartha a dhéanfaidh siad ina gcáil oifigiúil agus beidh dosháraitheacht acu maidir lena bpáipéir agus lena ndoiciméid oifigiúla.

2. Féadfaidh an Bord Rialtóirí aon cheann de na díolúintí a thugtar faoin Airteagal seo i leith Chathaoirleach an Bhoird Rialtóirí, Rialtóra, Rialtóra mhalartaigh, Stiúrthóra, Stiúrthóra mhalartaigh nó an Stiúrthóra Bainistíochta a tharscaoileadh a mhéid, agus ar cibé coinníollacha, a chinnfidh sé.

3. Féadfaidh an Stiúrthóir Bainistíochta aon díolúine den sórt sin a tharscaoileadh i leith aon duine d'fhoireann SCE, seachas é féin nó í féin.

4. Déanfaidh gach Comhalta de SCE an ghníomhaíocht is gá go pras chun éifeacht a thabhairt don Airteagal seo faoi théarmaí a dhlí féin agus cuirfidh sé SCE ar an eolas maidir leis an méid sin dá réir sin.

AIRTEAGAL 36

Díolúine ó chánachas

1. Faoi chuimsiú raon feidhme a ghníomhaíochtaí oifigiúla, beidh SCE, a shócmhainní, a ioncam, a mhaoin agus a oibríochtaí agus a idirbhearta arna n-údarú leis an gConradh seo díolmhaithe ó gach cáin dhíreach.

2. Déanfaidh Comhaltaí SCE, i ngach cás inar féidir sin, na bearta is cuí chun méid na gcánacha neamhdhíreacha nó na gcánacha díolacháin a bheidh ar áireamh i bpraghas maoine sochorraithe nó dochorraithe a mhaitheamh nó a aisíoc nuair a dhéanann SCE, le haghaidh a úsáide oifigiúla, ceannacháin shubstaintiúla a bhfuil cánacha den sórt sin ar áireamh ina bpraghas.

3. Ní dheonófar díolúine ar bith i leith cánacha agus dleachtanna nach bhfuil iontu ach táillí le haghaidh seirbhísí fóntais phoiblí.

4. Beidh earraí a allmhaireoidh SCE agus is gá chun a ghníomhaíochtaí oifigiúla a fheidhmiú díolmhaithe ó na dleachtanna agus na cánacha uile ar allmhairí agus ó na toirmisc agus na srianta uile ar allmhairí.

5. Beidh foireann SCE inchurtha faoi cháin inmheánach, chun tairbhe do SCE, ar thuarastail agus ar dhíolaíochtaí a íocfaidh SCE, faoi réir rialacha a ghlacfaidh an Bord Rialtóirí. Ón dáta a chuirfear an cháin sin i bhfeidhm, beidh tuarastail agus díolaíochtaí den sórt sin díolmhaithe ó cháin ioncaim náisiúnta.

6. Ní thoibheofar cánachas d'aon saghas ar aon oibleagáid ná urrús a eiseoidh SCE, lena n- áirítear aon ús nó díbhinn orthu, cibé duine a shealbhóidh iad:

(a) lena ndéantar idirdhealú i gcoinne na hoibleagáide nó an urrúis sin go heisiatach mar gheall ar a bhunadh; nó

(b) ar cánachas é arb é an t-aon bhonn dlínsiúil atá leis an áit nó an t-airgeadra ina n-eiseofar é nó ina mbeidh sé iníoctha nó ina n-íocfar é, nó suíomh aon oifige nó áite gnó atá á cothabháil ag SCE.

AIRTEAGAL 37

Léiriú agus réiteach díospóide

1. Aon cheist a eascróidh idir aon Chomhalta de SCE agus SCE, nó idir Comhaltaí de SCE, maidir le léiriú nó cur i bhfeidhm fhorálacha an Chonartha seo agus fhodhlíthe SCE, cuirfear faoi bhráid an Bhoird Stiúrthóirí í le cinneadh a dhéanamh uirthi.

2. Déanfaidh an Bord Rialtóirí cinneadh faoi aon díospóid a eascróidh idir Comhalta de SCE agus SCE, nó idir Comhaltaí de SCE, i dtaobh léiriú agus chur i bhfeidhm an Chonartha seo, lena n-áirítear aon díospóid faoi chomhoiriúnacht na gcinntí a ghlac SCE leis an gConradh seo. Déanfar vótaí chomhalta nó chomhaltaí Bhord Rialtóirí an Chomhalta nó na gComhaltaí de SCE lena mbaineann a fhionraí nuair a bheidh vótáil ar siúl ag an mBord Rialtóirí ar an gcinneadh sin agus déanfar an tairseach vótála is gá chun an cinneadh a ghlacadh a athríomh dá réir.

3. Má dhéanann Comhalta de SCE an cinneadh dá dtagraítear i mír 2 a chonspóid, cuirfear an díospóid faoi bhráid Chúirt Bhreithiúnais an Aontais Eorpaigh. Beidh breithiúnas Chúirt Bhreithiúnais an Aontais Eorpaigh ina cheangal ar na páirtithe sa nós imeachta, agus déanfaidh na páirtithe sin na bearta is gá chun an breithiúnas a chomhlíonadh laistigh de thréimhse a chinnfidh an Chúirt sin.

AIRTEAGAL 38

Comhar idirnáisiúnta

D'fhonn a chuspóirí a chur ar aghaidh, beidh SCE i dteideal comhoibriú, faoi chuimsiú théarmaí an Chonartha seo, le CAI, le haon Stát atá ag soláthar cúnamh airgeadais ar bhonn ad hoc do Chomhalta de SCE agus le haon eagraíocht nó le haon eintiteas idirnáisiúnta ar a bhfuil sainfhreagrachtaí i réimsí gaolmhara.

CAIBIDIL 7

SOCRUITHE IDIRTHRÉIMHSEACHA

AIRTEAGAL 39

Comhréireacht le hiasachtóireacht SaorCAE

Le linn na céime idirthréimhsí a mhairfidh ó theacht i bhfeidhm an Chonartha seo go dtí díscaoileadh iomlán SaorCAE, ní rachaidh an iasachtóireacht chomhdhlúite ó SCE agus ó SaorCAE thar EUR 500 000 milliún, gan dochar don athbhreithniú tráthrialta ar leordhóthanacht uasmhéid na hiasachtóireachta i gcomhréir le hAirteagal 10. Glacfaidh an Bord Stiúrthóirí

treoirlínte mionsonraithe maidir leis an modh ar a ríomhfar an acmhainn tiomantais don todhchaí chun a áirithiú nach dtéitear thar an uasteorainn iasachtóireachta comhdhlúite.

AIRTEAGAL 40

Tacaíochtaí SaorCAE a aistriú

1. De mhaolú ar Airteagal 13, féadfaidh an Bord Rialtóirí cinneadh a dhéanamh go ndéanfaidh SCE tiomantais SaorCAE maidir le cúnamh airgeadais a sholáthar do Chomhalta de SCE faoina chomhaontú leis an gcomhalta sin a ghlacadh air féin a mhéid a bhaineann na tiomantais sin leis na codanna neamheisíoctha agus neamhchistithe de na saoráidí iasachta.

2. Féadfaidh SCE, má údaraíonn a Bhord Rialtóirí an méid sin, cearta SaorCAE a fháil agus oibleagáidí SaorCAE a ghlacadh air féin, go háirithe maidir lena cearta agus lena hoibleagáidí uile, nó le cuid díobh, atá ar marthain faoina saoráidí iasachta láithreacha agus i ndáil leo.

3. Glacfaidh an Bord Rialtóirí na módúlachtaí mionsonraithe is gá chun éifeacht a thabhairt d'aistriú na n-oibleagáidí ó SaorCAE go dtí SCE dá dtagraítear i mír 1, agus d'aon aistriú ceart agus aistriú oibleagáidí mar a thuairiscítear i mír 2.

AIRTEAGAL 41

An caipiteal tosaigh a íoc

1. Gan dochar do mhír 2, déanfar scaireanna íoctha an méid a shuibscríobh gach Comhalta de SCE i dtosach a íoc i bhfoirm cúig thráthchuid bhliantúla de 20% den mhéid iomlán an ceann. Íocfaidh gach Comhalta de SCE an chéad tráthchuid laistigh de chúig lá dhéag tar éis an dáta a thiocfaidh an Conradh seo i bhfeidhm. Beidh na ceithre thráthchuid eile iníoctha cothrom bliana, dhá bhliain, trí bliana agus ceithre bliana faoi seach ón dáta a íocfar an chéad tráthchuid.

2. Le linn na tréimhse cúig bliana ina n-íocfar caipiteal i dtráthchodanna, déanfaidh Comhaltaí SCE íocaíocht na scaireanna íoctha a luathú, go tráthúil roimh an dáta eisiúna d'fhonn cóimheas íosta 15% idir caipiteal íoctha agus méid neamhíoctha eisiúintí SCE a choimeád agus acmhainn chomhcheangailte íosta iasachtóireachta EUR 500 000 milliún ó SCE agus SaorCAE a ráthú.

3. Féadfaidh Comhalta de SCE a chinneadh a scair de chaipiteal íoctha a íoc níos luaithe.

AIRTEAGAL 42

Ceartú sealadach ar an treoir rannícoca

1. Tráth a bhunaithe, déanfaidh Comhaltaí SCE an stoc caipitiúil údaraithe a shuibscríobh ar bhonn na treorach rannícoca tosaigh a shonraítear in Iarscríbhinn I. Beidh an ceartú sealadach atá ar áireamh sa treoir rannícoca tosaigh sin i bhfeidhm ar feadh tréimhse dhá bhliain déag tar éis an dáta a ghlacfaidh an Comhalta de SCE i dtrácht an euro.

2. I gcás gur lú olltáirgeacht intíre (OTI) Comhalta nua de SCE in aghaidh an duine ar mhargadhphraghsanna in euro sa bhliain díreach roimh a aontachas

do SCE ná 75% de mheán-olltáirgeacht intíre an Aontais Eorpaigh in aghaidh an duine ar mhargadhphraghsanna, bainfidh a threoir rannícoca le haghaidh shuibscríobh stoc caipitiúil údaraithe SCE, arna cinneadh i gcomhréir le hAirteagal 10, tairbhe as ceartú sealadach agus is ionann é agus suim:

(a) 25% de scair chéatadánach bhanc ceannais náisiúnta an Chomhalta sin de SCE i gcaipiteal BCE, arna cinneadh i gcomhréir le hAirteagal 29 de Reacht CEBC; agus

(b) 75% de scair chéatadánach an Chomhalta sin de SCE in ollioncam náisiúnta (OIN) an limistéir euro ar mhargadhphraghsanna in euro sa bhliain díreach roimh a aontachas do SCE.

Cothromófar na céatadáin dá dtagraítear i bpointe (a) agus i bpointe (b) suas nó síos go dtí an t-iolraí is gaire de 0,0001 faoin gcéad. Is iad na téarmaí staidrimh a fhoilseoidh Eurostat na téarmaí a bheidh i bhfeidhm.

3. Beidh feidhm ag an gceartú sealadach dá dtagraítear i mír 2 ar feadh tréimhse dhá bhliain déag ón dáta a ghlacfaidh an Comhalta de SCE i dtrácht an euro.

4. De thoradh an cheartaithe shealadaigh ar an treoir, déanfar an sciar iomchuí de scaireanna a leithroinneadh ar Chomhalta de SCE de bhun mhír 2 a leithroinnt arís i measc na gComhaltaí sin de SCE nach bhfuil ag baint tairbhe as ceartú sealadach ar bhonn a scairshealbhaíochta in BCE, arna chinneadh i gcomhréir le hAirteagal 29 de Reacht CEBC, a bhí ann díreach sular eisíodh scaireanna don Chomhalta aontach de SCE.

AIRTEAGAL 43

Na chéad cheapacháin

1. Ainmneoidh gach Comhalta de SCE a Rialtóir agus a Rialtóir malartach laistigh de dhá sheachtain ó theacht i bhfeidhm an Chonartha seo.

2. Ceapfaidh an Bord Rialtóirí an Stiúrthóir Bainistíochta agus ceapfaidh gach Rialtóir faoi seach Stiúrthóir agus Stiúrthóir malartach laistigh de dhá mhí ó theacht i bhfeidhm an Chonartha seo.

CAIBIDIL 8

FORÁLACHA CRÍOCHNAITHEACHA

AIRTEAGAL 44

Aontachas

Beidh an Conradh seo ar oscailt le haghaidh aontachais Ballstát eile den Aontas Eorpach i gcomhréir le hAirteagal 2 ar iarratas ar chomhaltas a chomhdóidh aon Bhallstát den sórt sin den Aontas Eorpach le SCE tar éis do Chomhairle an Aontais Eorpaigh an cinneadh a ghlacadh lena n-aisghairtear an maolú atá ag an mBallstát sin gan an euro a ghlacadh i gcomhréir le hAirteagal 140(2) CFAE. Déanfaidh an Bord Rialtóirí iarratas ar aontachas an Chomhalta nua de SCE agus na téarmaí teicniúla mionsonraithe a bhaineann leis a fhormheas, chomh maith leis na hoiriúnuithe a bheidh le déanamh ar an gConradh seo de thoradh díreach an aontachais. Tar éis don Bhord Rialtóirí an t-iarratas ar chomhaltas a fhormheas, déanfaidh comhaltaí nua de SCE an t-aontachas tráth a thaiscfear na hionstraimí aontachais leis an Taiscí, agus cuirfidh an Taiscí fógra faoin méid sin chuig na Comhaltaí eile de SCE.

AIRTEAGAL 45

Na hIarscríbhinní

Is cuid dhílis den Chonradh seo na hIarscríbhinní seo a leanas a ghabhann leis:

(1) Iarscríbhinn I: Treoir rannícoca SCE; agus

(2) Iarscríbhinn II: Suibscríobhanna leis an stoc caipitiúil údaraithe.

AIRTEAGAL 46

Taisceadh

Déanfar an Conradh seo a thaisceadh le hArdrúnaíocht Chomhairle an Aontais Eorpaigh ("an Taiscí "), agus cuirfidh an Taiscí cóipeanna deimhnithe chuig gach sínitheoir.

AIRTEAGAL 47

Daingniú, formheas nó glacadh

1. Beidh an Conradh seo faoi réir a dhaingnithe, a fhormheasa nó a ghlactha ag na sínitheoirí. Déanfar ionstraimí daingniúcháin, formheasa nó glactha a thaisceadh leis an Taiscí.

2. Cuirfidh an Taiscí fógra chuig na sínitheoirí eile maidir le gach taisceadh agus an dáta a dhéantar é.

AIRTEAGAL 48

Teacht i bhFeidhm

1. Tiocfaidh an Conradh seo i bhfeidhm an dáta a dhéanfaidh na sínitheoirí, a bhfuil a suibscríbhinní tosaigh in ionannas le 90 % ar a laghad d'iomlán na suibscríobhanna atá leagtha amach in Iarscríbhinn II, ionstraimí daingniúcháin, formheasa nó glactha a thaisceadh. I gcás gur cuí, déanfar an liosta de Chomhaltaí SCE a choigeartú; déanfar an treoir in Iarscríbhinn I a athríomh ansin agus déanfar iomlán an stoic chaipitiúil údaraithe in Airteagal 8(1) agus in Iarscríbhinn II agus luach ainmniúil comhiomlán tosaigh iomlán na scaireanna íoctha in Airteagal 8(2) a laghdú dá réir.

2. Tiocfaidh an Conradh seo i bhfeidhm, i gcás gach sínitheora a thaiscfidh a ionstraim daingniúcháin, formheasa nó glactha dá éis sin, an lá tar éis dháta an taiscthe.

3. I gcás gach Stáit a aontaíonn don Chonradh seo i gcomhréir le hAirteagal 44, tiocfaidh an Conradh seo i bhfeidhm an fichiú lá tar éis don Stát a ionstraim aontachais a thaisceadh.

Arna dhéanamh sa Bhruiséil an dara lá d'Fheabhra sa bhliain dhá mhíle a dó dhéag i scríbhinn bhunaidh amháin sa Bhéarla, san Eastóinis, san Fhionlainnis, sa Fhraincis, sa Ghaeilge, sa Ghearmáinis, sa Ghréigis, san Iodáilis, sa Mháltais, san Ollainnis, sa Phortaingéilis, sa tSlóvaicis, sa tSlóivéinis, sa Spáinnis agus sa tSualainnis, agus comhúdarás ag na téacsanna i ngach ceann de na teangacha sin, agus taiscfear é i gcartlann an Taiscí agus cuirfidh an Taiscí cóip chuídheimhnithe chuig gach ceann de na Páirtithe Conarthacha.

Tráth aontachas Phoblacht na Laitvia, beidh comhúdarás ag an téacs Laitvise a thaiscfear i gcartlann an Taiscí agus cuirfidh an Taiscí cóip chuídheimhnithe chuig gach ceann de na Páirtithe Conarthacha.

IARSCRÍBHINN I

Treoir Ranníoca SCE

An Comhalta de SCE	Treoir SCE (%)	Ríocht na Beilge 3.4675
Poblacht Chónaidhme na Gearmáine	27.0716	
Poblacht na hEastóine	0.1855	
Éire	1.5878	
An Phoblacht Heilléanach	2.8089	
Ríocht na Spáinne	11.8709	
Poblacht na Fraince	20.3297	
Poblacht na hIodáile	17.8643	
Poblacht na Cipire	0.1957	
Poblacht na Laitvia	0.2757	
Ard-Diúcacht Lucsamburg	0.2497	
Málta	0.0729	
Ríocht na hÍsiltíre	5.7012	
Poblacht na hOstaire	2.7757	
Poblacht na Portaingéile	2.5023	
Poblacht na Slóivéine	0.4264	
Poblacht na Slóvaice	0.8217	
Poblacht na Fionlainne	1.7924	
An tIomlán	100.0	

Slánaítear na figiúirí thuasluaite go dtí ceithre ionad dheachúla.

IARSCRÍBHINN II

Suibscríobhanna leis an stoic caipitiúil údaraithe

An Comhalta de SCE	Líon na scaireanna	Suibscríobh caipitiúil (EUR)
Ríocht na Beilge	243 397	24 339 700 000
Poblacht Chónaidhme na Gearmáine	1 900 248	190 024 800 000
Poblacht na hEastóine	13 020	1 302 000 000
Éire	111 454	11 145 400 000
An Phoblacht Heilléanach	197 169	19 716 900 000
Ríocht na Spáinne	833 259	83 325 900 000
Poblacht na Fraince	1 427 013	142 701 300 000

Poblacht na hIodáile	1 253 959	125 395 900 000
Poblacht na Cipire	13 734	1 373 400 000
Poblacht na Laitvia	19 353	1 935 300 000
Ard-Diúcacht Lucsamburg	17 528	1 752 800 000
Málta	5 117	511 700 000
Ríocht na hÍsiltíre	400 190	40 019 000 000
Poblacht na hOstaire	194 838	19 483 800 000
Poblacht na Portaingéile	175 644	17 564 400 000
Poblacht na Slóivéine	29 932	2 993 200 000
Poblacht na Slóvaice	57 680	5 768 000 000
Poblacht na Fionlainne	125 818	12 581 800 000
An tIomlán	7 019 353	701 935 300 000

PART 2

Text of Treaty in the English Language

TREATY

ESTABLISHING THE EUROPEAN STABILITY MECHANISM

BETWEEN THE KINGDOM OF BELGIUM, THE FEDERAL

REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA, IRELAND, THE HELLENIC

REPUBLIC,

THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC, THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE GRAND DUCHY OF LUXEMBOURG, MALTA,

THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC

OF AUSTRIA,

THE PORTUGUESE REPUBLIC, THE REPUBLIC OF

SLOVENIA,

THE SLOVAK REPUBLIC AND THE REPUBLIC OF

FINLAND

THE CONTRACTING PARTIES, the Kingdom of Belgium, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Grand Duchy of Luxembourg, Malta, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese

Republic, the Republic of Slovenia, the Slovak Republic and the Republic of Finland (the "euro area Member States" or "ESM Members");

COMMITTED TO ensuring the financial stability of the euro area;

RECALLING the Conclusions of the European Council adopted on 25 March 2011 on the establishment of a European stability mechanism;

WHEREAS:

(1) The European Council agreed on 17 December 2010 on the need for euro area Member States to establish a permanent stability mechanism. This European Stability Mechanism ("ESM") will assume the tasks currently fulfilled by the European Financial Stability Facility ("EFSF") and the European Financial Stabilisation Mechanism ("EFSM") in providing, where needed, financial assistance to euro area Member States.

(2) On 25 March 2011, the European Council adopted Decision 2011/199/EU amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro [2] adding the following paragraph to Article 136: "The Member States whose currency is the euro may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality".

(3) With a view to increasing the effectiveness of the financial assistance and to prevent the risk of financial contagion, the Heads of State or Government of the Member States whose currency is the euro agreed on 21 July 2011 to "increase [the] flexibility [of the ESM] linked to appropriate conditionality".

(4) Strict observance of the European Union framework, the integrated macro-economic surveillance, in particular the Stability and Growth Pact, the macroeconomic imbalances framework and the economic governance rules of the European Union, should remain the first line of defence against confidence crises affecting the stability of the euro area.

(5) On 9 December 2011 the Heads of State or Government of the Member States whose currency is the euro agreed to move towards a stronger economic union including a new fiscal compact and strengthened economic policy coordination to be implemented through an international agreement, the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union ("TSCG"). The TSCG will help develop a closer coordination within the euro area with a view to ensuring a lasting, sound and robust management of public finances and thus addresses one of the main sources of financial instability. This Treaty and the TSCG are complementary in fostering fiscal responsibility and solidarity within the economic and monetary union. It is acknowledged and agreed that the granting of financial assistance in the framework of new programmes under the ESM will be conditional, as of 1 March 2013, on the ratification of the TSCG by the ESM Member concerned and, upon expiration of the transposition period referred to in Article 3(2) TSCG on compliance with the requirements of that article.

(6) Given the strong interrelation within the euro area, severe risks to the financial stability of Member States whose currency is the euro may put at risk the financial stability of the euro area as a whole. The ESM may therefore provide stability support on the basis of a strict conditionality, appropriate to the financial assistance instrument chosen if indispensable

[2]OJ L 91, 6.4.2011, p. 1.

to safeguard the financial stability of the euro area as a whole and of its Member States. The initial maximum lending volume of the ESM is set at EUR 500 000 million, including the outstanding EFSF stability support. The adequacy of the consolidated ESM and EFSF maximum lending volume will, however, be reassessed prior to the entry into force of this Treaty. If appropriate, it will be increased by the Board of Governors of the ESM, in accordance with Article 10, upon entry into force of this Treaty.

(7) All euro area Member States will become ESM Members. As a consequence of joining the euro area, a Member State of the European Union should become an ESM Member with full rights and obligations, in line with those of the Contracting Parties.

(8) The ESM will cooperate very closely with the International Monetary Fund ("IMF") in providing stability support. The active participation of the IMF will be sought, both at technical and financial level. A euro area Member State requesting financial assistance from the ESM is expected to address, wherever possible, a similar request to the IMF.

(9) Member States of the European Union whose currency is not the euro ("non euro area Member States") participating on an ad hoc basis alongside the ESM in a stability support operation for euro area Member States will be invited to participate, as observers, in the ESM meetings when this stability support and its monitoring will be discussed. They will have access to all information in a timely manner and be properly consulted.

(10) On 20 June 2011, the representatives of the Governments of the Member States of the European Union authorised the Contracting Parties of this Treaty to request the European Commission and the European Central Bank ("ECB") to perform the tasks provided for in this Treaty.

(11) In its statement of 28 November 2010, the Euro Group stated that standardised and identical Collective Action Clauses ("CACs") will be included, in such a way as to preserve market liquidity, in the terms and conditions of all new euro area government bonds. As requested by the European Council on 25 March 2011, the detailed legal arrangements for including CACs in euro area government securities were finalised by the Economic and Financial Committee.

(12) In accordance with IMF practice, in exceptional cases an adequate and proportionate form of private sector involvement shall be considered in cases where stability support is provided accompanied by conditionality in the form of a macro-economic adjustment programme.

(13) Like the IMF, the ESM will provide stability support to an ESM Member when its regular access to market financing is impaired or is at risk of being impaired. Reflecting this, Heads of State or Government have stated that the ESM loans will enjoy preferred creditor status in a similar fashion to those of the IMF, while accepting preferred creditor status of the IMF over the ESM. This status will be effective as of the date of entry into force of this Treaty. In the event of ESM financial assistance in the form of ESM loans following a European financial assistance programme existing at the time of the signature of this Treaty, the ESM will enjoy the same seniority as all other loans and obligations of the beneficiary ESM Member, with the exception of the IMF loans.

(14) The euro area Member States will support equivalent creditor status of the ESM and that of other States lending bilaterally in coordination with the ESM.

(15) ESM lending conditions for Member States subject to a macroeconomic adjustment programme, including those referred to in Article 40 of this Treaty, shall cover the financing and operating costs of the ESM and should be consistent with the lending conditions of the Financial Assistance Facility Agreements signed between the EFSF, Ireland and the Central Bank of Ireland on the one hand and the EFSF, the Portuguese Republic and Banco de Portugal on the other.

(16) Disputes concerning the interpretation and application of this Treaty arising between the Contracting Parties or between the Contracting Parties and the ESM should be submitted to the jurisdiction of the Court of Justice of the European Union, in accordance with Article 273 of the Treaty on the Functioning of the European Union ("TFEU").

(17) Post-programme surveillance will be carried out by the European Commission and by the Council of the European Union within the framework laid down in Articles 121 and 136 TFEU,

HAVE AGREED AS FOLLOWS:

CHAPTER 1

MEMBERSHIP AND PURPOSE

ARTICLE 1

Establishment and members

(1) By this Treaty, the Contracting Parties establish among themselves an international financial institution, to be named the "European Stability Mechanism" ("ESM").

(2) The Contracting Parties are ESM Members.

ARTICLE 2

New members

(1) Membership in the ESM shall be open to the other Member States of the European Union as from the entry into force of the decision of the Council of the European Union taken in accordance with Article 140(2) TFEU to abrogate their derogation from adopting the euro.

(2) New ESM Members shall be admitted on the same terms and conditions as existing ESM Members, in accordance with Article 44.

(3) A new member acceding to the ESM after its establishment shall receive shares in the ESM in exchange for its capital contribution, calculated in accordance with the contribution key provided for in Article 11.

ARTICLE 3

Purpose

The purpose of the ESM shall be to mobilise funding and provide stability support under strict conditionality, appropriate to the financial assistance instrument chosen, to the benefit of ESM Members which are experiencing, or are threatened by, severe financing problems, if indispensable to

safeguard the financial stability of the euro area as a whole and of its Member States. For this purpose, the ESM shall be entitled to raise funds by issuing financial instruments or by entering into financial or other agreements or arrangements with ESM Members, financial institutions or other third parties.

CHAPTER 2

GOVERNANCE

ARTICLE 4

Structure and voting rules

(1) The ESM shall have a Board of Governors and a Board of Directors, as well as a Managing Director and other dedicated staff as may be considered necessary.

(2) The decisions of the Board of Governors and the Board of Directors shall be taken by mutual agreement, qualified majority or simple majority as specified in this Treaty. In 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.

(3) The adoption of a decision by mutual agreement requires the unanimity of the members participating in the vote. Abstentions do not prevent the adoption of a decision by mutual agreement.

(4) By way of derogation from paragraph 3, an emergency voting procedure shall be used where the Commission and the ECB both conclude that a failure to urgently adopt a decision to grant or implement financial assistance, as defined in Articles 13 to 18, would threaten the economic and financial sustainability of the euro area. The adoption of a decision by mutual agreement by the Board of Governors referred to in points (f) and (g) of Article 5(6) and the Board of Directors under that emergency procedure requires a qualified majority of 85% of the votes cast.

Where the emergency procedure referred to in the first subparagraph is used, a transfer from the reserve fund and/or the paid-in capital to an emergency reserve fund is made in order to constitute a dedicated buffer to cover the risks arising from the financial support granted under that emergency procedure. The Board of Governors may decide to cancel the emergency reserve fund and transfer its content back to the reserve fund and/or paid-in capital.

(5) The adoption of a decision by qualified majority requires 80 % of the votes cast.

(6) The adoption of a decision by simple majority requires a majority of the votes cast.

(7) The voting rights of each ESM Member, as exercised by its appointee or by the latter's representative on the Board of Governors or Board of Directors, shall be equal to the number of shares allocated to it in the authorised capital stock of the ESM as set out in Annex II.

(8) If any ESM Member fails to pay any part of the amount due in respect of its obligations in relation to paid-in shares or calls of capital under Articles 8, 9 and 10, or in relation to the reimbursement of the financial assistance under Article 16 or 17, such ESM Member shall be unable, for so long as

such failure continues, to exercise any of its voting rights. The voting thresholds shall be recalculated accordingly.

ARTICLE 5

Board of Governors

(1) Each ESM Member shall appoint a Governor and an alternate Governor. Such appointments are revocable at any time. The Governor shall be a member of the government of that ESM Member who has responsibility for finance. The alternate Governor shall have full power to act on behalf of the Governor when the latter is not present.

(2) The Board of Governors shall decide either to be chaired by the President of the Euro Group, as referred to in Protocol (No 14) on the Euro Group annexed to the Treaty on the European Union and to the TFEU or to elect a Chairperson and a Vice-Chairperson from among its members for a term of two years. The Chairperson and the Vice-Chairperson may be re-elected. A new election shall be organised without delay if the incumbent no longer holds the function needed for being designated Governor.

(3) The Member of the European Commission in charge of economic and monetary affairs and the President of the ECB, as well as the President of the Euro Group (if he or she is not the Chairperson or a Governor) may participate in the meetings of the Board of Governors as observers.

(4) Representatives of non-euro area Member States participating on an ad hoc basis alongside the ESM in a stability support operation for a euro area Member State shall also be invited to participate, as observers, in the meetings of the Board of Governors when this stability support and its monitoring will be discussed.

(5) Other persons, including representatives of institutions or organisations, such as the IMF, may be invited by the Board of Governors to attend meetings as observers on an ad hoc basis.

(6) The Board of Governors shall take the following decisions by mutual agreement:

(a) to cancel the emergency reserve fund and transfer its content back to the reserve fund and/or paid-in capital, in accordance with Article 4(4);

(b) to issue new shares on terms other than at par, in accordance with Article 8(2);

(c) to make the capital calls, in accordance with Article 9(1);

(d) to change the authorised capital stock and adapt the maximum lending volume of the ESM, in accordance with Article 10(1);

(e) to take into account a possible update of the key for the subscription of the ECB capital, in accordance with Article 11(3), and the changes to be made to Annex I in accordance with Article 11(6);

(f) to provide stability support by the ESM, including the economic policy conditionality as stated in the memorandum of understanding referred to in Article 13(3), and to establish the choice of instruments and the financial terms and conditions, in accordance with Articles 12 to 18;

(g) to give a mandate to the European Commission to negotiate, in liaison with the ECB, the economic policy conditionality attached to each financial assistance, in accordance with Article 13(3);

(h) to change the pricing policy and pricing guideline for financial assistance, in accordance with Article 20;

(i) to change the list of financial assistance instruments that may be used by the ESM, in accordance with Article 19;

(j) to establish the modalities of the transfer of EFSF support to the ESM, in accordance with Article 40;

(k) to approve the application for membership of the ESM by new members, referred to in Article 44;

(l) to make adaptations to this Treaty as a direct consequence of the accession of new members, including changes to be made to the distribution of capital among ESM Members and the calculation of such a distribution as a direct consequence of the accession of a new member to the ESM, in accordance with Article 44; and

(m) to delegate to the Board of Directors the tasks listed in this Article.

(7) The Board of Governors shall take the following decisions by qualified majority:

(a) to set out the detailed technical terms of accession of a new member to the ESM, in accordance with Article 44;

(b) whether to be chaired by the President of the Euro Group or to elect, by qualified majority, the Chairperson and Vice-Chairperson of the Board of Governors, in accordance with paragraph 2;

(c) to set out by-laws of the ESM and the rules of procedure applicable to the Board of Governors and Board of Directors (including the right to establish committees and subsidiary bodies), in accordance with paragraph 9;

(d) to determine the list of activities incompatible with the duties of a Director or an alternate Director, in accordance with Article 6(8);

(e) to appoint and to end the term of office of the Managing Director, in accordance with Article 7;

(f) to establish other funds, in accordance with Article 24;

(g) on the actions to be taken for recovering a debt from an ESM Member, in accordance with Article 25(2) and (3);

(h) to approve the annual accounts of the ESM, in accordance with Article 27(1);

(i) to appoint the members of the Board of Auditors, in accordance with Article 30(1);

(j) to approve the external auditors, in accordance with Article 29;

(k) to waive the immunity of the Chairperson of the Board of Governors, a Governor, alternate Governor, Director, alternate Director or the Managing Director, in accordance with Article 35(2);

(l) to determine the taxation regime applicable to the ESM staff, in accordance with Article 36(5);

(m) on a dispute, in accordance with Article 37(2); and

(n) any other necessary decision not explicitly provided for by this Treaty.

(8) The Chairperson shall convene and preside over the meetings of the Board of Governors. The Vice-Chairperson shall preside over these meetings when the Chairperson is unable to participate.

(9) The Board of Governors shall adopt their rules of procedure and the by-laws of the ESM.

ARTICLE 6

Board of Directors

(1) Each Governor shall appoint one Director and one alternate Director from among people of high competence in economic and financial matters. Such appointments shall be revocable at any time. The alternate Directors shall have full power to act on behalf of the Director when the latter is not present.

(2) The Member of the European Commission in charge of economic and monetary affairs and the President of the ECB may appoint one observer each.

(3) Representatives of non-euro area Member States participating on an ad hoc basis alongside the ESM in a financial assistance operation for a euro area Member State shall also be invited to participate, as observers, in the meetings of the Board of Directors when this financial assistance and its monitoring will be discussed.

(4) Other persons, including representatives of institutions or organisations, may be invited by the Board of Governors to attend meetings as observers on an ad hoc basis.

(5) The Board of Directors shall take decisions by qualified majority, unless otherwise stated in this Treaty. Decisions to be taken on the basis of powers delegated by the Board of Governors shall be adopted in accordance with the relevant voting rules set in Article 5(6) and (7).

(6) Without prejudice to the powers of the Board of Governors as set out in Article 5, the Board of Directors shall ensure that the ESM is run in accordance with this Treaty and the by-laws of the ESM adopted by the Board of Governors. It shall take decisions as provided for in this Treaty or which are delegated to it by the Board of Governors.

(7) Any vacancy in the Board of Directors shall be immediately filled in accordance with paragraph 1.

(8) The Board of Governors shall lay down what activities are incompatible with the duties of a Director or an alternate Director, the by-laws of the ESM and rules of procedure of the Board of Directors.

ARTICLE 7

Managing Director

(1) The Managing Director shall be appointed by the Board of Governors from among candidates having the nationality of an ESM Member, relevant international experience and a high level of competence in economic and

financial matters. Whilst holding office, the Managing Director may not be a Governor or Director or an alternate of either.

(2) The term of office of the Managing Director shall be five years. He or she may be re-appointed once. The Managing Director shall, however, cease to hold office when the Board of Governors so decides.

(3) The Managing Director shall chair the meetings of the Board of Directors and shall participate in the meetings of the Board of Governors.

(4) The Managing Director shall be chief of the staff of the ESM. He or she shall be responsible for organising, appointing and dismissing staff in accordance with staff rules to be adopted by the Board of Directors.

(5) The Managing Director shall be the legal representative of the ESM and shall conduct, under the direction of the Board of Directors, the current business of the ESM.

CHAPTER 3

CAPITAL

ARTICLE 8

Authorised capital stock

(1) The authorised capital stock shall be EUR 701 935.3 million. It shall be divided into seven million nineteen thousand three hundred and fifty-three shares, having a nominal value of EUR 100 000 each, which shall be available for subscription according to the initial contribution key provided for in Article 11 and calculated in Annex I.

(2) The authorised capital stock shall be divided into paid-in shares and callable shares. The initial total aggregate nominal value of paid-in shares shall be EUR 80 221.2 million. Shares of authorised capital stock initially subscribed shall be issued at par. Other shares shall be issued at par, unless the Board of Governors decides to issue them in special circumstances on other terms.

(3) Shares of authorised capital stock shall not be encumbered or pledged in any manner whatsoever and they shall not be transferable, with the exception of transfers for the purposes of implementing adjustments of the contribution key provided for in Article 11 to the extent necessary to ensure that the distribution of shares corresponds to the adjusted key.

(4) ESM Members hereby irrevocably and unconditionally undertake to provide their contribution to the authorised capital stock, in accordance with their contribution key in Annex I. They shall meet all capital calls on a timely basis in accordance with the terms set out in this Treaty.

(5) The liability of each ESM Member shall be limited, in all circumstances, to its portion of the authorised capital stock at its issue price. No ESM Member shall be liable, by reason of its membership, for obligations of the ESM. The obligations of ESM Members to contribute to the authorised capital stock in accordance with this Treaty are not affected if any such ESM Member becomes eligible for, or is receiving, financial assistance from the ESM.

ARTICLE 9

Capital calls

(1) The Board of Governors may call in authorised unpaid capital at any time and set an appropriate period of time for its payment by the ESM Members.

(2) The Board of Directors may call in authorised unpaid capital by simple majority decision to restore the level of paid-in capital if the amount of the latter is reduced by the absorption of losses below the level established in Article 8(2), as may be amended by the Board of Governors following the procedure provided for in Article 10, and set an appropriate period of time for its payment by the ESM Members.

(3) The Managing Director shall call authorised unpaid capital in a timely manner if needed to avoid the ESM being in default of any scheduled or other payment obligation due to ESM creditors. The Managing Director shall inform the Board of Directors and the Board of Governors of any such call. When a potential shortfall in ESM funds is detected, the Managing Director shall make such capital call(s) as soon as possible with a view to ensuring that the ESM shall have sufficient funds to meet payments due to creditors in full on their due date. ESM Members hereby irrevocably and unconditionally undertake to pay on demand any capital call made on them by the Managing Director pursuant to this paragraph, such demand to be paid within seven days of receipt.

(4) The Board of Directors shall adopt the detailed terms and conditions which shall apply to calls on capital pursuant to this Article.

ARTICLE 10

Changes in authorised capital stock

(1) The Board of Governors shall review regularly and at least every five years the maximum lending volume and the adequacy of the authorised capital stock of the ESM. It may decide to change the authorised capital stock and amend Article 8 and Annex II accordingly. Such decision shall enter into force after the ESM Members have notified the Depositary of the completion of their applicable national procedures. The new shares shall be allocated to the ESM Members according to the contribution key provided for in Article 11 and in Annex I.

(2) The Board of Directors shall adopt the detailed terms and conditions which shall apply to all or any capital changes made under paragraph 1.

(3) Upon a Member State of the European Union becoming a new ESM Member, the authorised capital stock of the ESM shall be automatically increased by multiplying the respective amounts then prevailing by the ratio, within the adjusted contribution key provided for in Article 11, between the weighting of the new ESM Member and the weighting of the existing ESM Members.

ARTICLE 11

Contribution key

(1) The contribution key for subscribing to ESM authorised capital stock shall, subject to paragraphs 2 and 3, be based on the key for subscription, by the national central banks of ESM Members, of the ECB's capital pursuant to Article 29 of Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank (the "ESCB Statute") annexed to the Treaty on European Union and to the TFEU.

(2) The contribution key for the subscription of the ESM authorised capital stock is specified in Annex I.

(3) The contribution key for the subscription of the ESM authorised capital stock shall be adjusted when:

(a) a Member State of the European Union becomes a new ESM Member and the ESM's authorised capital stock automatically increases, as specified in Article 10(3); or

(b) the twelve year temporary correction applicable to an ESM Member established in accordance with Article 42 ends.

(4) The Board of Governors may decide to take into account possible updates to the key for the subscription of the ECB's capital referred to in paragraph 1 when the contribution key is adjusted in accordance with paragraph 3 or when there is a change in the authorised capital stock, as specified in Article 10(1).

(5) When the contribution key for the subscription of the ESM authorised capital stock is adjusted, the ESM Members shall transfer among themselves authorised capital stock to the extent necessary to ensure that the distribution of authorised capital stock corresponds to the adjusted key.

(6) Annex I shall be amended upon decision by the Board of Governors upon any adjustment referred to in this Article.

(7) The Board of Directors shall take all other measures necessary for the application of this Article.

CHAPTER 4

OPERATIONS

ARTICLE 12

Principles

(1) If indispensable to safeguard the financial stability of the euro area as a whole and of its Member States, the ESM may provide stability support to an ESM Member subject to strict conditionality, appropriate to the financial assistance instrument chosen. Such conditionality may range from a macro-economic adjustment programme to continuous respect of pre-established eligibility conditions.

(2) Without prejudice to Article 19, ESM stability support may be granted through the instruments provided for in Articles 14 to 18.

(3) Collective action clauses shall be included, as of 1 January 2013, in all new euro area government securities, with maturity above one year, in a way which ensures that their legal impact is identical.

ARTICLE 13

Procedure for granting stability support

(1) An ESM Member may address a request for stability support to the Chairperson of the Board of Governors. Such a request shall indicate the financial assistance instrument(s) to be considered. On receipt of such a

request, the Chairperson of the Board of Governors shall entrust the European Commission, in liaison with the ECB, with the following tasks:

(a) to assess the existence of a risk to the financial stability of the euro area as a whole or of its Member States, unless the ECB has already submitted an analysis under Article 18(2);

(b) to assess whether public debt is sustainable. Wherever appropriate and possible, such an assessment is expected to be conducted together with the IMF;

(c) to assess the actual or potential financing needs of the ESM Member concerned.

(2) On the basis of the request of the ESM Member and the assessment referred to in paragraph 1, the Board of Governors may decide to grant, in principle, stability support to the ESM Member concerned in the form of a financial assistance facility.

(3) If a decision pursuant to paragraph 2 is adopted, the Board of Governors shall entrust the European Commission - in liaison with the ECB and, wherever possible, together with the IMF - with the task of negotiating, with the ESM Member concerned, a memorandum of understanding (an "MoU") detailing the conditionality attached to the financial assistance facility. The content of the MoU shall reflect the severity of the weaknesses to be addressed and the financial assistance instrument chosen. In parallel, the Managing Director of the ESM shall prepare a proposal for a financial assistance facility agreement, including the financial terms and conditions and the choice of instruments, to be adopted by the Board of Governors.

The MoU shall be fully consistent with the measures of economic policy coordination provided for in the TFEU, in particular with any act of European Union law, including any opinion, warning, recommendation or decision addressed to the ESM Member concerned.

(4) The European Commission shall sign the MoU on behalf of the ESM, subject to prior compliance with the conditions set out in paragraph 3 and approval by the Board of Governors.

(5) The Board of Directors shall approve the financial assistance facility agreement detailing the financial aspects of the stability support to be granted and, where applicable, the disbursement of the first tranche of the assistance.

(6) The ESM shall establish an appropriate warning system to ensure that it receives any repayments due by the ESM Member under the stability support in a timely manner.

(7) The European Commission - in liaison with the ECB and, wherever possible, together with the IMF - shall be entrusted with monitoring compliance with the conditionality attached to the financial assistance facility.

ARTICLE 14

ESM precautionary financial assistance

(1) The Board of Governors may decide to grant precautionary financial assistance in the form of a precautionary conditioned credit line or in the form of an enhanced conditions credit line in accordance with Article 12(1).

(2) The conditionality attached to the ESM precautionary financial assistance shall be detailed in the MoU, in accordance with Article 13(3).

(3) The financial terms and conditions of the ESM precautionary financial assistance shall be specified in a precautionary financial assistance facility agreement, to be signed by the Managing Director.

(4) The Board of Directors shall adopt the detailed guidelines on the modalities for implementing the ESM precautionary financial assistance.

(5) The Board of Directors shall decide by mutual agreement on a proposal from the Managing Director and after having received a report from the European Commission in accordance with Article 13(7), whether the credit line should be maintained.

(6) After the ESM Member has drawn funds for the first time (via a loan or a primary market purchase), the Board of Directors shall decide by mutual agreement on a proposal from the Managing Director and based on an assessment conducted by the European Commission, in liaison with the ECB, whether the credit line continues to be adequate or whether another form of financial assistance is needed.

ARTICLE 15

Financial assistance for the re-capitalisation of financial institutions of an ESM Member

(1) The Board of Governors may decide to grant financial assistance through loans to an ESM Member for the specific purpose of re-capitalising the financial institutions of that ESM Member.

(2) The conditionality attached to financial assistance for the re-capitalisation of an ESM Member's financial institutions shall be detailed in the MoU, in accordance with Article 13(3).

(3) Without prejudice to Articles 107 and 108 TFEU, the financial terms and conditions of financial assistance for the re-capitalisation of an ESM Member's financial institutions shall be specified in a financial assistance facility agreement, to be signed by the Managing Director.

(4) The Board of Directors shall adopt the detailed guidelines on the modalities for implementing financial assistance for the re-capitalisation of an ESM Member's financial institutions.

(5) Where applicable, the Board of Directors shall decide by mutual agreement, on a proposal from the Managing Director and after having received a report from the European Commission in accordance with Article 13(7), the disbursement of the tranches of the financial assistance subsequent to the first tranche.

ARTICLE 16

ESM loans

(1) The Board of Governors may decide to grant financial assistance in the form of a loan to an ESM Member, in accordance with Article 12.

(2) The conditionality attached to the ESM loans shall be contained in a macro-economic adjustment programme detailed in the MoU, in accordance with Article 13(3).

(3) The financial terms and conditions of each ESM loan shall be specified in a financial assistance facility agreement, to be signed by the Managing Director.

(4) The Board of Directors shall adopt the detailed guidelines on the modalities for implementing ESM loans.

(5) The Board of Directors shall decide by mutual agreement, on a proposal from the Managing Director and after having received a report from the European Commission in accordance with Article 13(7), the disbursement of the tranches of the financial assistance subsequent to the first tranche.

ARTICLE 17

Primary market support facility

(1) The Board of Governors may decide to arrange for the purchase of bonds of an ESM Member on the primary market, in accordance with Article 12 and with the objective of maximising the cost efficiency of the financial assistance.

(2) The conditionality attached to the primary market support facility shall be detailed in the MoU, in accordance with Article 13(3).

(3) The financial terms and conditions under which the bond purchase is conducted shall be specified in a financial assistance facility agreement, to be signed by the Managing Director.

(4) The Board of Directors shall adopt the detailed guidelines on the modalities for implementing the primary market support facility.

(5) The Board of Directors shall decide by mutual agreement, on a proposal from the Managing Director and after having received a report from the European Commission in accordance with Article 13(7), the disbursement of financial assistance to a beneficiary Member State through operations on the primary market.

ARTICLE 18

Secondary market support facility

(1) The Board of Governors may decide to arrange for operations on the secondary market in relation to the bonds of an ESM Member in accordance with Article 12(1).

(2) Decisions on interventions on the secondary market to address contagion shall be taken on the basis of an analysis of the ECB recognising the existence of exceptional financial market circumstances and risks to financial stability.

(3) The conditionality attached to the secondary market support facility shall be detailed in the MoU, in accordance with Article 13(3).

(4) The financial terms and conditions under which the secondary market operations are to be conducted shall be specified in a financial assistance facility agreement, to be signed by the Managing Director.

(5) The Board of Directors shall adopt the detailed guidelines on the modalities for implementing the secondary market support facility.

(6) The Board of Directors shall decide by mutual agreement, on a proposal from the Managing Director, to initiate operations on the secondary market.

ARTICLE 19

Review of the list of financial assistance instruments

The Board of Governors may review the list of financial assistance instruments provided for in Articles 14 to 18 and decide to make changes to it.

ARTICLE 20

Pricing policy

(1) When granting stability support, the ESM shall aim to fully cover its financing and operating costs and shall include an appropriate margin.

(2) For all financial assistance instruments, pricing shall be detailed in a pricing guideline, which shall be adopted by the Board of Governors.

(3) The pricing policy may be reviewed by the Board of Governors.

ARTICLE 21

Borrowing operations

(1) The ESM shall be empowered to borrow on the capital markets from banks, financial institutions or other persons or institutions for the performance of its purpose.

(2) The modalities of the borrowing operations shall be determined by the Managing Director, in accordance with detailed guidelines to be adopted by the Board of Directors.

(3) The ESM shall use appropriate risk management tools, which shall be reviewed regularly by the Board of Directors.

CHAPTER 5

FINANCIAL MANAGEMENT

ARTICLE 22

Investment policy

(1) The Managing Director shall implement a prudent investment policy for the ESM, so as to ensure its highest creditworthiness, in accordance with guidelines to be adopted and reviewed regularly by the Board of Directors. The ESM shall be entitled to use part of the return on its investment portfolio to cover its operating and administrative costs.

(2) The operations of the ESM shall comply with the principles of sound financial and risk management.

ARTICLE 23

Dividend policy

(1) The Board of Directors may decide, by simple majority, to distribute a dividend to the ESM Members where the amount of paid-in capital and the reserve fund exceed the level required for the ESM to maintain its lending capacity and where proceeds from the investment are not required to avoid a payment shortfall to creditors. Dividends are distributed pro rata to the contributions to the paid-in capital, taking into account the possible acceleration referred to in Article 41(3).

(2) As long as the ESM has not provided financial assistance to one of its members, the proceeds from the investment of the ESM paid-in capital shall be returned to the ESM Members according to their respective contributions to the paid-in capital, after deductions for operational costs, provided that the targeted effective lending capacity is fully available.

(3) The Managing Director shall implement the dividend policy for the ESM in accordance with guidelines to be adopted by the Board of Directors.

ARTICLE 24

Reserve and other funds

(1) The Board of Governors shall establish a reserve fund and, where appropriate, other funds.

(2) Without prejudice to Article 23, the net income generated by the ESM operations and the proceeds of the financial sanctions received from the ESM Members under the multilateral surveillance procedure, the excessive deficit procedure and the macro-economic imbalances procedure established under the TFEU shall be put aside in a reserve fund.

(3) The resources of the reserve fund shall be invested in accordance with guidelines to be adopted by the Board of Directors.

(4) The Board of Directors shall adopt such rules as may be required for the establishment, administration and use of other funds.

ARTICLE 25

Coverage of losses

(1) Losses arising in the ESM operations shall be charged:

(a) firstly, against the reserve fund;

(b) secondly, against the paid-in capital; and

(c) lastly, against an appropriate amount of the authorised unpaid capital, which shall be called in accordance with Article 9(3).

(2) If an ESM Member fails to meet the required payment under a capital call made pursuant to Article 9(2) or (3), a revised increased capital call shall be made to all ESM Members with a view to ensuring that the ESM receives the total amount of paid-in capital needed. The Board of Governors shall decide an appropriate course of action for ensuring that the ESM Member concerned settles its debt to the ESM within a reasonable period of time. The Board of Governors shall be entitled to require the payment of default interest on the overdue amount.

(3) When an ESM Member settles its debt to the ESM, as referred to in paragraph 2, the excess capital shall be returned to the other ESM Members in accordance with rules to be adopted by the Board of Governors.

ARTICLE 26

Budget

The Board of Directors shall approve the ESM budget annually.

ARTICLE 27

Annual accounts

(1) The Board of Governors shall approve the annual accounts of the ESM.

(2) The ESM shall publish an annual report containing an audited statement of its accounts and shall circulate to ESM Members a quarterly summary statement of its financial position and a profit and loss statement showing the results of its operations.

ARTICLE 28

Internal Audit

An internal audit function shall be established according to international standards.

ARTICLE 29

External audit

The accounts of the ESM shall be audited by independent external auditors approved by the Board of Governors and responsible for certifying the annual financial statements. The external auditors shall have full power to examine all books and accounts of the ESM and obtain full information about its transactions.

ARTICLE 30

Board of Auditors

(1) The Board of Auditors shall consist of five members appointed by the Board of Governors for their competence in auditing and financial matters and shall include two members from the supreme audit institutions of the ESM Members - with a rotation between the latter - and one from the European Court of Auditors.

(2) The members of the Board of Auditors shall be independent. They shall neither seek nor take instructions from the ESM governing bodies, the ESM Members or any other public or private body.

(3) The Board of Auditors shall draw up independent audits. It shall inspect the ESM accounts and verify that the operational accounts and balance sheet are in order. It shall have full access to any document of the ESM needed for the implementation of its tasks.

(4) The Board of Auditors may inform the Board of Directors at any time of its findings. It shall, on an annual basis, draw up a report to be submitted to the Board of Governors.

(5) The Board of Governors shall make the annual report accessible to the national parliaments and supreme audit institutions of the ESM Members and to the European Court of Auditors.

(6) Any matter relating to this Article shall be detailed in the by-laws of the ESM.

CHAPTER 6

GENERAL PROVISIONS

ARTICLE 31

Location

(1) The ESM shall have its seat and principal office in Luxembourg.

(2) The ESM may establish a liaison office in Brussels.

ARTICLE 32

Legal status, privileges and immunities

(1) To enable the ESM to fulfil its purpose, the legal status and the privileges and immunities set out in this Article shall be accorded to the ESM in the territory of each ESM Member. The ESM shall endeavour to obtain recognition of its legal status and of its privileges and immunities in other territories in which it performs functions or holds assets.

(2) The ESM shall have full legal personality; it shall have full legal capacity to:

(a) acquire and dispose of movable and immovable property;

(b) contract;

(c) be a party to legal proceedings; and

(d) enter into a headquarter agreement and/or protocols as necessary for ensuring that its legal status and its privileges and immunities are recognised and enforced.

(3) The ESM, its property, funding and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that the ESM expressly waives its immunity for the purpose of any proceedings or by the terms of any contract, including the documentation of the funding instruments.

(4) The property, funding and assets of the ESM shall, wherever located and by whomsoever held, be immune from search, requisition, confiscation, expropriation or any other form of seizure, taking or foreclosure by executive, judicial, administrative or legislative action.

(5) The archives of the ESM and all documents belonging to the ESM or held by it, shall be inviolable.

(6) The premises of the ESM shall be inviolable.

(7) The official communications of the ESM shall be accorded by each ESM Member and by each state which has recognised the legal status and the privileges and immunities of the ESM, the same treatment as it accords to the official communications of an ESM Member.

(8) To the extent necessary to carry out the activities provided for in this Treaty, all property, funding and assets of the ESM shall be free from restrictions, regulations, controls and moratoria of any nature.

(9) The ESM shall be exempted from any requirement to be authorised or licensed as a credit institution, investment services provider or other authorised licensed or regulated entity under the laws of each ESM Member.

ARTICLE 33

Staff of the ESM

The Board of Directors shall lay down the conditions of employment of the Managing Director and other staff of the ESM.

ARTICLE 34

Professional secrecy

The Members or former Members of the Board of Governors and of the Board of Directors and any other persons who work or have worked for or in connection with the ESM shall not disclose information that is subject to professional secrecy. They shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

ARTICLE 35

Immunities of persons

(1) In the interest of the ESM, the Chairperson of the Board of Governors, Governors, alternate Governors, Directors, alternate Directors, as well as the Managing Director and other staff members shall be immune from legal proceedings with respect to acts performed by them in their official capacity and shall enjoy inviolability in respect of their official papers and documents.

(2) The Board of Governors may waive to such extent and upon such conditions as it determines any of the immunities conferred under this Article in respect of the Chairperson of the Board of Governors, a Governor, an alternate Governor, a Director, an alternate Director or the Managing Director.

(3) The Managing Director may waive any such immunity in respect of any member of the staff of the ESM other than himself or herself.

(4) Each ESM Member shall promptly take the action necessary for the purposes of giving effect to this Article in the terms of its own law and shall inform the ESM accordingly.

ARTICLE 36

Exemption from taxation

(1) Within the scope of its official activities, the ESM, its assets, income, property and its operations and transactions authorised by this Treaty shall be exempt from all direct taxes.

(2) The ESM Members shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property where the ESM makes, for its official use, substantial purchases, the price of which includes taxes of this kind.

(3) No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

(4) Goods imported by the ESM and necessary for the exercise of its official activities shall be exempt from all import duties and taxes and from all import prohibitions and restrictions.

(5) Staff of the ESM shall be subject to an internal tax for the benefit of the ESM on salaries and emoluments paid by the ESM, subject to rules to be adopted by the Board of Governors. From the date on which this tax is applied, such salaries and emoluments shall be exempt from national income tax.

(6) No taxation of any kind shall be levied on any obligation or security issued by the ESM including any interest or dividend thereon by whomsoever held:

(a) which discriminates against such obligation or security solely because of its origin; or

(b) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the ESM.

ARTICLE 37

Interpretation and dispute settlement

(1) Any question of interpretation or application of the provisions of this Treaty and the by-laws of the ESM arising between any ESM Member and the ESM, or between ESM Members, shall be submitted to the Board of Directors for its decision.

(2) The Board of Governors shall decide on any dispute arising between an ESM Member and the ESM, or between ESM Members, in connection with the interpretation and application of this Treaty, including any dispute about the compatibility of the decisions adopted by the ESM with this Treaty. The votes of the member(s) of the Board of Governors of the ESM Member(s) concerned shall be suspended when the Board of Governors votes on such decision and the voting threshold needed for the adoption of that decision shall be recalculated accordingly.

(3) If an ESM Member contests the decision referred to in paragraph 2, the dispute shall be submitted to the Court of Justice of the European Union. The judgement of the Court of Justice of the European Union shall be binding on the parties in the procedure, which shall take the necessary measures to comply with the judgment within a period to be decided by said Court.

ARTICLE 38

International cooperation

The ESM shall be entitled, for the furtherance of its purposes, to cooperate, within the terms of this Treaty, with the IMF, any State which provides financial assistance to an ESM Member on an ad hoc basis and any international organisation or entity having specialised responsibilities in related fields.

CHAPTER 7

TRANSITIONAL ARRANGEMENTS

ARTICLE 39

Relation with EFSF lending

During the transitional phase spanning the period from the entry into force of this Treaty until the complete run-down of the EFSF, the consolidated ESM and EFSF lending shall not exceed EUR 500 000 million, without prejudice to the regular review of the adequacy of the maximum lending volume in accordance with Article 10. The Board of Directors shall adopt detailed guidelines on the calculation of the forward commitment capacity to ensure that the consolidated lending ceiling is not breached.

ARTICLE 40

Transfer of EFSF supports

(1) By way of derogation from Article 13, the Board of Governors may decide that the EFSF commitments to provide financial assistance to an ESM Member under its agreement with that member shall be assumed by the ESM as far as such commitments relate to undisbursed and unfunded parts of loan facilities.

(2) The ESM may, if authorised by its Board of Governors, acquire the rights and assume the obligations of the EFSF, in particular in respect of all or part of its outstanding rights and obligations under, and related to, its existing loan facilities.

(3) The Board of Governors shall adopt the detailed modalities necessary to give effect to the transfer of the obligations from the EFSF to the ESM, as referred to in paragraph 1 and any transfer of rights and obligations as described in paragraph 2.

ARTICLE 41

Payment of the initial capital

(1) Without prejudice to paragraph 2, payment of paid-in shares of the amount initially subscribed by each ESM Member shall be made in five annual instalments of 20 % each of the total amount. The first instalment shall be paid by each ESM Member within fifteen days of the date of entry into force of this Treaty. The remaining four instalments shall each be payable on the first, second, third and fourth anniversary of the payment date of the first instalment.

(2) During the five-year period of capital payment by instalments, ESM Members shall accelerate the payment of paid-in shares, in a timely manner prior to the issuance date, in order to maintain a minimum 15 % ratio between paid-in capital and the outstanding amount of ESM issuances and guarantee a minimum combined lending capacity of the ESM and of the EFSF of EUR 500 000 million.

(3) An ESM Member may decide to accelerate the payment of its share of paid-in capital.

ARTICLE 42

Temporary correction of the contribution key

(1) At inception, the ESM Members shall subscribe the authorised capital stock on the basis of the initial contribution key as specified in Annex I. The temporary correction included in this initial contribution key shall apply for a period of twelve years after the date of adoption of the euro by the ESM Member concerned.

(2) If a new ESM Member's gross domestic product (GDP) per capita at market prices in euro in the year immediately preceding its accession to the ESM is less than 75 % of the European Union average GDP per capita at market prices, then its contribution key for subscribing to ESM authorised capital stock, determined in accordance with Article 10, shall benefit from a temporary correction and equal the sum of:

(a) 25 % of the percentage share in the ECB capital of the national central bank of that ESM Member, determined in accordance with Article 29 of the ESCB Statute; and

(b) 75 % of that ESM Member's percentage share in the gross national income (GNI) at market prices in euro of the euro area in the year immediately preceding its accession to the ESM.

The percentages referred to in points (a) and (b) shall be rounded up or down to the nearest multiple of 0,0001 percentage points. The statistical terms shall be those published by Eurostat.

(3) The temporary correction referred to in paragraph 2 shall apply for a period of twelve years from the date of adoption of the euro by the ESM Member concerned.

(4) As a result of the temporary correction of the key, the relevant proportion of shares allocated to an ESM Member pursuant to paragraph 2 shall be reallocated amongst the ESM Members not benefiting from a temporary correction on the basis of their shareholding in the ECB, determined in accordance with Article 29 of the ESCB Statute, subsisting immediately prior to the issue of shares to the acceding ESM Member.

ARTICLE 43

First appointments

(1) Each ESM Member shall designate its Governor and alternate Governor within the two weeks of the entry into force of this Treaty.

(2) The Board of Governors shall appoint the Managing Director and each Governor shall appoint a Director and an alternate Director within the two months of the entry into force of this Treaty.

CHAPTER 8

FINAL PROVISIONS

ARTICLE 44

Accession

This Treaty shall be open for accession by other Member States of the European Union in accordance with Article 2 upon application for membership that any such Member State of the European Union shall file with the ESM after the adoption by the Council of the European Union of the decision to abrogate its derogation from adopting the euro in accordance with Article 140(2) TFEU. The Board of Governors shall approve the application for accession of the new ESM Member and the detailed technical terms related thereto, as well as the adaptations to be made to this Treaty as a direct consequence of the accession. Following the approval of the application for membership by the Board of Governors, new ESM Members shall accede upon the deposit of the instruments of accession with the Depositary, who shall notify other ESM Members thereof.

ARTICLE 45

Annexes

The following Annexes to this Treaty shall constitute an integral part thereof:

(1) Annex I: Contribution key of the ESM; and

(2) Annex II: Subscriptions to the authorised capital stock.

ARTICLE 46

Deposit

This Treaty shall be deposited with the General Secretariat of the Council of the European Union ("the Depositary"), which shall communicate certified copies to all the signatories.

ARTICLE 47

Ratification, approval or acceptance

(1) This Treaty shall be subject to ratification, approval or acceptance by the signatories. Instruments of ratification, approval or acceptance shall be deposited with the Depositary.

(2) The Depositary shall notify the other signatories of each deposit and the date thereof.

ARTICLE 48

Entry into force

(1) This Treaty shall enter into force on the date when instruments of ratification, approval or acceptance have been deposited by signatories whose initial subscriptions represent no less than 90% of the total subscriptions set forth in Annex II. Where appropriate, the list of ESM Members shall be adjusted; the key in Annex I shall then be recalculated and the total authorised capital stock in Article 8(1) and Annex II and the initial total aggregated nominal value of paid-in shares in Article 8(2) shall be reduced accordingly.

(2) For each signatory which thereafter deposits its instrument of ratification, approval or acceptance, this Treaty shall enter into force on the day following the date of deposit.

(3) For each State which accedes to this Treaty in accordance with Article 44, this Treaty shall enter into force on the twentieth day following the deposit of its instrument of accession.

Done at Brussels on the second day of February in the year two thousand and twelve in a single original, whose Dutch, English, Estonian, Finnish, French, German, Greek, Irish, Italian, Maltese, Portuguese, Slovak, Slovenian, Spanish and Swedish texts are equally authentic, which shall be deposited in the archives of the Depositary which shall transmit a duly certified copy to each of the Contracting Parties.

Upon accession of the Republic of Latvia, the Latvian text shall be equally authentic, which shall be deposited in the archives of the Depositary which shall transmit a duly certified copy to each of the Contracting Parties.

ANNEX I

Contribution Key of the ESM

ESM Member	ESM key (%)
Kingdom of Belgium	3.4675
Federal Republic of Germany	27.0716
Republic of Estonia	0.1855
Ireland	1.5878
Hellenic Republic	2.8089
Kingdom of Spain	11.8709
French Republic	20.3297
Italian Republic	17.8643
Republic of Cyprus	0.1957
Republic of Latvia	0.2757
Grand Duchy of Luxembourg	0.2497
Malta	0.0729
Kingdom of the Netherlands	5.7012
Republic of Austria	2.7757
Portuguese Republic	2.5023
Republic of Slovenia	0.4264
Slovak Republic	0.8217

Republic of Finland	1.7924
Total	100.0

The above figures are rounded to four decimals.

ANNEX II

Subscriptions to the authorised capital stock

ESM Member	Number of shares	Capital subscription (EUR)
Kingdom of Belgium	243 397	24 339 700 000
Federal Republic of Germany	1 900 248	190 024 800 000
Republic of Estonia	13 020	1 302 000 000
Ireland	111 454	11 145 400 000
Hellenic Republic	197 169	19 716 900 000
Kingdom of Spain	833 259	83 325 900 000
French Republic	1 427 013	142 701 300 000
Italian Republic	1 253 959	125 395 900 000
Republic of Cyprus	13 734	1 373 400 000
Republic of Latvia	19 353	1 935 300 000
Grand Duchy of Luxembourg	17 528	1 752 800 000
Malta	5 117	511 700 000
Kingdom of the Netherlands	400 190	40 019 000 000
Republic of Austria	194 838	19 483 800 000
Portuguese Republic	175 644	17 564 400 000
Republic of Slovenia	29 932	2 993 200 000
Slovak Republic	57 680	5 768 000 000
Republic of Finland	125 818	12 581 800 000
Total	7 019 353	701 935 300 000

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Number 32 *of* 2014

EUROPEAN STABILITY MECHANISM (AMENDMENT) ACT 2014

REVISED

Updated to 9 December 2021

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

European Stability Mechanism Acts 2012 to 2021: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Finance (European Stability Mechanism and Single Resolution Fund) Act 2021* (38/2021), s. 8(3)). The Acts in this group are:

- *European Stability Mechanism Act 2012* (20/2012)
- *European Stability Mechanism (Amendment) Act 2014* (32/2014)
- *Finance (European Stability Mechanism and Single Resolution Fund) Act 2021* (38/2021), ss. 2-4

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.