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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8.4.2009
COM(2009) 169 final

2009/0053 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 332/2002, establishing a facility providing medium-term financial assistance for Member States' balances of payments

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 332/2002, establishing a facility providing medium-term financial assistance for Member States' balances of payments

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission, submitted following the consultation with the Economic and Financial Committee¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the European Central Bank³,

Whereas:

- (1) The scope and intensity of the international financial crisis affects the potential demand for Community medium-term financial assistance in the Member States outside the euro area and calls for considerable increase in the ceiling laid down in Regulation No (EC) 332/2002⁴ for the outstanding amount of loans to be granted to them from EUR 25 billion to EUR 50 billion.
- (2) In the light of recent experience gained in the functioning of medium-term financial assistance, the respective tasks and responsibilities of the Commission and the Member States concerned with the implementation of the Regulation should be clarified. In addition, the conditions for granting the financial assistance should be spelled out in a memorandum of understanding to be negotiated between the Commission and the Member State concerned.
- (3) The rules guiding some aspects of the financial management of Community financial assistance should be clarified. For operational reasons, the Member State concerned should be asked to place the financial assistance received in a special account with the National Central Bank and to transfer the amounts due in an account with the European Central Bank a few days prior to their due dates.
- (4) Sound management of the Community financial assistance received is of paramount importance. Therefore, the possibility for the European Court of Auditors and the European Anti-Fraud Office to carry out controls when they deem necessary is provided for by the existing loan agreements and should be laid down in this Regulation.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ L 53, 23.2.2002, p. 1.

- (5) This Regulation should apply immediately to all new loan agreements and to the existing loan agreements if and when they are revised.
- (6) Regulation (EC) No 332/2002 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 332/2002 is amended as follows:

1. The second subparagraph of Article 1(1) is replaced by the following:
"The outstanding amount of loans to be granted to Member States under this facility shall be limited to EUR 50 billion in principal."
2. Article 3(2), is replaced by the following:
"The Member State concerned shall discuss with the Commission an assessment of its financial needs and submit a draft adjustment programme. The Council, after examining the situation in the Member State seeking medium-term financial assistance and the adjustment programme presented in support of its application, shall decide, as a rule during the same meeting:
 - (a) whether to grant a loan or appropriate financing facility, its amount and its average duration;
 - (b) the economic policy conditions attaching to the medium-term financial assistance with a view to re-establishing or ensuring a sustainable balance of payments situation;
 - (c) the techniques for disbursing the loan or financing facility, the release or drawing-down of which shall, as a rule, be by successive instalments, the release of each instalment being subject to verification of the results achieved in implementing the programme in terms of the objectives set."
3. The following Article 3a is inserted:

"Article 3a

The Commission and the Member State concerned shall conclude a memorandum of understanding detailing the conditions laid down by the Council."

4. Article 5 is replaced by the following:
"1. The Commission shall take the necessary measures to verify at regular intervals, in collaboration with the Economic and Financial Committee that the economic policy of the Member State in receipt of a Community loan accords with the adjustment programme and with any other conditions laid down by the Council pursuant to Article 3. To this end, the Member State shall place all the necessary information at the disposal of the Commission and cooperate in full with the latter. On the basis of the findings of such verification, the Commission, after the Economic and Financial Committee has delivered an opinion, shall decide on the release of further instalments.
The Council shall decide on any adjustments to be made to the initial economic policy conditions."

5. In Article 7 the following paragraph 5 is added:

"5. The Member States concerned shall open a special account with its National Central Bank for the management of the Community medium-term financial assistance received. The Member State concerned shall transfer the principal and interest due under the loan to an account with the European Central Bank seven TARGET2⁵ business days prior to the corresponding due dates."

6. The following Article 9a is inserted:

" Article 9a

The European Court of Auditors shall have the right to carry out any financial controls or audits that it considers necessary in relation to the management of this assistance. The Commission, including the European Anti-Fraud Office, shall have the right to send its own officials or duly authorised representatives to carry out technical or financial controls or audits that it considers necessary in relation to the management of the Community medium-term financial assistance."

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*

⁵ As defined in the Guideline ECB/2007/2 of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) (OJ L 237, 8.9.2007, p. 1).