HOUSE OF LORDS

Library Note

European Union (Approval of Treaty Amendment Decision) Bill (HL Bill 3 of 2012–13)

This Library Note provides background reading in advance of the second reading in the House of Lords of the European Union (Approval of Treaty Amendment Decision) Bill [HL] on 23 May 2012. The Bill provides for UK approval of the European Council Decision that enables Eurozone Member States to establish a permanent stability mechanism. This Note sets out the provisions in the Bill and summarises the events that resulted in the introduction of the legislation. It concludes with an outline of the separate Treaty signed by the Eurozone Member States that establishes the stability mechanism.

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16 May 2012
LLN 2012/019

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1. Purpose of the Bill

On 25 March 2011, at a meeting of the European Council, Member States agreed to the amendment of Article 136 of the Treaty on the Functioning of the European Union (TFEU) to enable the creation of a permanent stability mechanism for Members of the Eurozone. The mechanism is called the European Stability Mechanism (ESM).

The European Union (Approval of Treaty Amendment Decision) Bill [HL] is a short, two clause Bill that provides:

- For the approval of this European Council Decision through primary legislation (clause 1(2));
- Confirmation that the approval of the Treaty Amendment Decision does not fall within section 4 of the European Union Act 2011 and so does not require a referendum (clause 1(3));
- That the Bill applies to the United Kingdom (clause 2(1)); and
- That the Bill will come into force on the day of Royal Assent (clause 2(2)).

The Bill received its first reading in the House of Lords on 10 May 2012 and is scheduled for second reading on 23 May 2012.

Commenting on the Bill Lord Howell of Guildford, Minister of State at the Foreign and Commonwealth Office, said:

> A stable and healthy Eurozone is important for the UK's long-term growth and prosperity. This treaty change is firmly in the UK's national interest, since it makes explicit the ability of Eurozone countries to set up a permanent European Stability Mechanism to support other Eurozone countries in financial trouble. This will be a fund by the Eurozone, for the Eurozone, and, unlike the situation this Government inherited, the UK will not be liable through the EU budget for any future Eurozone bailouts. This treaty change will help Eurozone countries take forward a key aspect of their plan to resolve the crisis and secure financial stability.
>
> (Foreign and Commonwealth Office website, 'Foreign Office Minister introduces EU Treaty Amendment Bill to the House of Lords', accessed 10 May 2012)

Section 2 of this Library Note outlines the main developments that led to the signing of the Treaty Amendment Decision, summarising parliamentary scrutiny of it and explaining the steps the Government have taken, and need to take, to ratify the Decision. Section 3 sets out the main provisions of the subsequent Treaty between Eurozone Members that establishes the European Stability Mechanism (to which the UK is not party). Further reading on the ESM and how it relates to broader developments in the European economy can be found in section 4, in particular how it relates to the separate stability pact, Treaty on Stability, Coordination and Governance in the Economic and Monetary Union.

2. Chronology of Main Developments

2.1 European Council Meeting (28–29 October 2010)

The European Council agreed at its meeting in October 2010 on the need for the establishment of a permanent crisis mechanism for the Eurozone. Herman Van Rompuy, President of the European Council, was asked to undertake a consultation with Member States about a limited treaty. It was agreed that only the Eurozone Member States would be party to any new mechanism and that this would replace the existing, temporary mechanisms, the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM) (see Box 1). These rescue funds were set up in May 2010 following financial problems in Greece and fears these would spread to other Member States thought to be at risk, including Spain, Portugal and Ireland (European Union Committee, *The Future of Economic Governance in the EU*, 24 March 2011, HL 124-I of session 2010–12, p 10, paras 6–9).

Box 1: Current Rescue Funds

The European Financial Stability Facility (EFSF) was created (and is funded) by the euro area Member States following decisions taken on 9 May 2010 by the European Council. The EFSF's mandate is to safeguard financial stability in Europe by providing financial assistance to euro area Member States (EFSF website, 'About EFSF', 2012).

The European Financial Stabilisation Mechanism (EFSM) was established by Council Regulation 407/2010 of 11 May 2010 under Article 122(2) TFEU. This enables the Council to provide financial assistance to Member States facing financial difficulties. It is financed by money raised on the financial markets and is backed by the EU budget (to which the UK contributes).

2.2 European Council Meeting (16–17 December 2010)

Agreement to amend the TFEU to enable the establishment of a permanent stability mechanism (ESM) for Members of the Eurozone was reached at a European Council meeting in December 2010 (EUCO 33/10). It was also agreed to make the required amendments to Part III TFEU (which includes Article 136) through the Simple Revision Procedure (under Article 48(6) of the Treaty on European Union). This would be the first use of that procedure, under which:

- A proposed amendment may be agreed by the European Council, without either an inter-governmental conference or a convention of national parliaments, governments, the European Parliament and the Commission;

- The European Council must consult the European Parliament, the Commission and (because of the subject matter in this case) the European Central Bank; and

- The amendment cannot come into force until it has been ratified by all the Member States in accordance with their national constitutions.

(House of Lords European Union Committee, *Amending Article 136 of the Treaty on the Functioning of the European Union*, 11 March 2011, HL Paper 110 of session 2010–11, para 11)

In a subsequent statement to the House of Commons, David Cameron, the Prime Minister, explained that the Government had three pre-meeting objectives: “first, to help bring stability to the Eurozone, which is in Britain’s interests; secondly, to make sure that Britain is not liable for bailing out the Eurozone when the new permanent arrangements come into effect; and thirdly, to build on the progress we made with the 2011 EU budget, with tougher settlements in the years to follow” (HC *Hansard*, 20 December 2010, col 1187). He said that nearly half the UK’s trade was with the Eurozone and therefore “We have a clear interest in other member states taking fiscal and structural action and in the cleaning up of banks’ balance sheets. The fact that we have set out a path to deal with our own deficit and seen our own interest rates come down lends weight to our argument” (ibid). With regard to the agreement to enable the establishment of the ESM, Mr Cameron argued it was of benefit to the UK:

> Enabling Eurozone countries to establish such a mechanism is in our interests, but how that mechanism is brought about is equally important. After the October Council I made it very clear to the House that any possible future treaty change would not affect the UK, and that I would not agree to it if it did. I also said that no powers would be transferred from Westminster to Brussels. At the Council we agreed the establishment of a permanent mechanism with a proposed very limited treaty change. This change does not affect the UK, and it does not transfer any powers from Britain to the European Union.
>
> (ibid)

He added that the agreement reached meant that the UK would no longer be liable for any future financial assistance:

> Britain is not in the euro and we are not going to join the euro, and that is why we should not have any liability for bailing out the Eurozone when the new permanent arrangements come into effect in 2013. In the current emergency arrangements established under article 122 of the treaty, we do have such a liability. That was a decision taken by the previous Government, and it is a decision that we disagreed with at the time. We are stuck with it for the duration of the emergency mechanism, but I have been determined to ensure that when the permanent mechanism starts, Britain’s liability should end, and that is exactly what we agreed at the European Council.
>
> (ibid)

Ed Miliband, Leader of the Opposition, welcomed the agreement but criticised Mr Cameron’s broader stance towards Europe. Consequently, Mr Miliband said, the Prime Minister “has to fall over himself to justify accepting a fairly minor change” (ibid, col 1189).

2.3 House of Commons European Scrutiny Committee (January/February 2011)

A number of reports by the European Scrutiny Committee have highlighted doubts about the legal basis of the existing EFSM (which the permanent ESM is to replace) and questioned whether a treaty change is required to create a permanent facility.

In January 2011, the Committee issued a report which examined the proposed treaty change. Responding to correspondence and briefing received from the Government, the Committee said that “it strained credibility to say that Article 122(2) TFEU was an appropriate legal base” for the EFSM. It noted that “Article 122(2) provides for a Member State being given financial assistance when it ‘is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control'. This did not, patently in our view, give the EU power to set up the EFSM" (House of Commons European Scrutiny Committee, *Documents considered by the Committee on 12 January 2011,* 27 January 2011, HC 428-xii of session 2010–12, para 2.12).

Following further correspondence with the Government, the Committee published a follow-up report in February 2011. In it the Committee expressed further doubt about the legal base of the temporary EFSM and queried why further treaty change was required to establish a permanent fund:

> [the Minister's comments] do not appear to countenance any doubt about the lawfulness of the legal base; indeed, he says the EFSM is compatible with the TFEU. This seems to us surprising, for Article 122 TFEU is intended to give financial assistance to a Member State which 'is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control'. We do wonder if this was really intended to establish a bail-out mechanism for the Eurozone, however temporary; and if it were, why there is a need to amend Article 136 TFEU by the simplified revision procedure to set up a permanent bail-out mechanism.
>
> (House of Commons European Scrutiny Committee, *Documents considered by the Committee on 26 January 2011*, 10 February 2011, HC 428-xiv of session 2010–12, para 1.6)

This issue was referred to again in the Committee's report on the *Treaty on Stability, Coordination and Governance* (April 2012). The report noted that the evidence said a treaty amendment was required:

> Recitals 2 and 3 of the Decision strongly suggest that the Treaty amendment is a necessary precursor of the Treaty establishing the ESM. This suggestion is reinforced by the European Council Conclusions of October 2010 (paragraph 2), December 2010 (paragraph 1) and March 2011 (paragraph 16). And it is further reinforced by the Prime Minister's statements to the House following the October and December 2010 European Council and comments by the Minister for Europe in the House's debate on the proposed amendment to Article 136 TFEU.
>
> (House of Commons European Scrutiny Committee, *Treaty on Stability, Coordination and Governance: Impact on the Eurozone and the Rule of Law*, 3 April 2012, HC 1817 of session 2010–12, p 29, paras 61–2)

However, the Committee was "extremely surprised by the Financial Secretary to the Treasury's comment, in his letter to us of 13 March" in which the Minister said that: "it is not legally necessary for the Article 136 Treaty change to have been made before the ESM can come into force". When questioned on this, the Minister reiterated: "it [the Treaty amendment] is desirable, but I do not think that it is necessary" (ibid).

2.4 Draft Decision: Motions to Approve (March 2011)

In accordance with the legislation in force at the time (section 6 of the European Union Act 2008), motions were tabled in both Houses to approve the Government's intention to support the adoption of the draft Decision (EUCO 33/10). On 23 March 2011 the House of Commons passed the motion 310 votes to 29, having debated it on 16 March 2011 (HC *Hansard*, cols 1063–6). In the House of Lords the motion was agreed to without a division following debate on 21 March 2011 (HL *Hansard*, cols 527–47).

2.4.1 House of Commons (16 March 2011)

On 16 March 2011 David Lidington, Minister for Europe, moved the motion in the House of Commons. He said that the European Council's Decision to provide for a permanent ESM would "provide a necessary means for dealing with cases that pose a risk to the financial stability of the euro area as a whole" (HC *Hansard*, 16 March 2011, col 427). He continued:

> By providing for Eurozone members to establish a permanent mechanism, the European Council is making absolutely clear the responsibilities of all members of the euro area to each other and to the overall stability of the euro area. The proposed new paragraph will be added to treaty provisions that apply—I stress this point—only to member states whose currency is the euro. It does not apply to non-euro area member states and cannot confer any obligations upon them. We believe that financial problems within the euro area should be resolved primarily by euro area members.
>
> (ibid)

The Minister insisted that while the UK would be voluntarily involved in the design of the ESM "we cannot and will not be part of the mechanism". He assured the House that:

> … we could not be part of the ESM unless the UK first joined the euro area, and as the whole House is already aware, the Government have declared their intention not to join or to prepare to join the euro. Furthermore, under the terms of the European Union Bill, if any future Government were so foolish as to wish to do so, they could join only with parliamentary approval by Act of Parliament and the consent of the British people in a referendum.
>
> (ibid)

In terms of UK liabilities, Mr Lidington told the House that the Government were unhappy with the current arrangements for the EFSM and the new arrangements were better for the UK:

> ... once the ESM is established to safeguard the stability of the euro area, article 122(2), on which basis the European financial stability mechanism was established, will no longer be used for such purposes. Therefore, our liability—bequeathed by the previous Government—for helping to bail out the euro area through EU borrowing backed by the EU budget, under the EFSM, will cease. That was an important achievement for British interests.
>
> (ibid, col 429)

In response to a number of contributions about the holding of a referendum, Mr Lidington stated that "any treaty changes constituting a transfer of competence or power from this country to Brussels will be subject to a referendum". This change, he said, "will enable no such thing, and it does not make sense to try to insist on a referendum on agreements that concern only other Member States". He added "it makes sense no more than it would have made sense for Germany to hold a referendum on the recent defence treaty between the United Kingdom and France" (ibid).

For the Opposition, Wayne David raised two concerns. The first was that the Eurozone countries could be tempted to extend the single market within the euro area, so excluding the UK. The second was that, while the ESM was to be welcomed, he believed “austerity, rapid economic retrenchment policies and fiscal consolidation” would not “create the kind of growth that the Eurozone desperately needs” (ibid, col 435). He argued that the “political and economic philosophy underpinning the treaty change and the ESM will make economic recovery in the Eurozone both fragile and uncertain” (ibid). Bill Cash, Conservative Chair of the European Scrutiny Committee, claimed the present “unprecedented” situation was a “serious moment for the future of Europe”. He was critical of the central role played by Germany in discussions to stabilise the Eurozone and urged the Government to seek some control while there was time: “the leverage comes now, when we have the opportunity to say no. The Government propose that this will be dealt with in a Bill, but that will be far too late” (ibid, cols 437–8). Martin Horwood (Liberal Democrat) though argued in favour of the Government’s stance, saying that “it is positively in Britain’s interest to engage responsibly with the process, rather than to talk of vetoes or of extracting concessions on issues quite unrelated to the stability mechanism” (ibid, col 428).

The issue of parliamentary scrutiny was also raised. David Lidington assured the House that “the draft decision that is referred to in the motion will be the version that is agreed at the Council and there can be no other version of the treaty change without the further approval of the House in a debate such as this” (ibid, col 424). He added that under the provisions of the legislation before Parliament (later to become the European Union Act 2011), more opportunities would be provided for further examination of the change (ibid, col 423). Wayne David, for the Opposition, queried the Government’s intention to change the scrutiny procedure. He argued that under the 2008 Act procedure the Prime Minister was mandated by Parliament to approve EU decisions. Under the proposed (2011 Act) procedure Parliament, he argued, would play only a “post-decision” role which was “a step backwards and a negation of democracy” (ibid, cols 432–3). Responding, Mr Lidington said that the new procedure ensured an Act of Parliament would be required which “is a much tougher form of scrutiny and accountability than a single vote before the initial decision is taken” (ibid, col 433).

2.4.2 House of Lords (21 March 2011)

On 21 March 2011, Lord Howell of Guildford moved the motion for the Government in the House of Lords. Opening the debate, Lord Howell explained why the motion was required and set out the case for the Government’s approval of the draft Decision. He concluded by saying:

> Without this Motion this evening, the consequences would be serious and damaging for Britain. The Prime Minster would not be able to signal his support for the draft decision at the March European Council next week and the decision then could not be adopted, as like all other treaty changes it requires unanimity. This means that, if it failed, Britain would remain indirectly liable for Eurozone bailouts through the EFSM, as it would not have been replaced by the ESM. By supporting the adoption of this treaty change at the March European Council, the UK will be supporting the members of the Eurozone to establish a permanent mechanism, which will make clear the responsibilities of all the members of the Eurozone to each other and to the overall stability of the euro area.
>
> (HL *Hansard*, 21 March 2011, col 530)

For the Opposition, Lord Eatwell asked a number of questions about the mechanism’s operation and the consequences for the UK. He argued the design “neither creates an effective default mechanism nor provides for a fresh flow of funding to countries in the grip of a debt crisis. Indeed, it will weaken that flow. This mechanism will not work. Therefore, it is not in the best interests of the UK that it be implemented” (ibid, cols 541–2).

Lord Harrison, Labour Chair of the European Union Sub-Committee A, referred to a recent report by his Committee, *Amending Article 136 of the Treaty on the Functioning of the European Union*. The Committee concluded:

> We agree with the Government’s view that it is in the UK’s interests to support a stable and prosperous euro area. The UK will not be part of the new permanent crisis resolution mechanism. We note, however, that participating Member States have decided that such a mechanism is necessary to safeguard the stability of the euro area.
>
> The proposed Treaty amendment will not transfer any powers from the UK to the EU, or result in any financial implications for the UK. We therefore support the Government’s intention to vote in favour of this amendment in the European Council.
>
> (House of Lords European Union Committee, *Amending Article 136 of the Treaty on the Functioning of the European Union*, 11 March 2011, HL Paper 110 of session 2010–12, paras 23–4)

Lord Lamont of Lerwick (Conservative) queried whether there was any conflict between the TFEU’s ‘no bail-out’ provisions and the role of the new ESM. In addition he raised concerns about the impact of any subsequent competitiveness agreements made between Eurozone Members on those EU Members outside it (HL *Hansard*, 21 March 2011, cols 532–3). Liberal Democrat spokesman Lord Newby was concerned about whether the UK would have any further role beyond helping design the ESM. He said “what worries me is that, once it is established, those Treasury officials will be told that they have been extremely helpful, that their advice has been most valuable and that they can now go back to London and let the rest of the Eurozone implement the policy” (ibid, col 536).

Lord Liddle (Labour) welcomed the ESM, however imperfect, but feared the Government were not engaged enough with other Eurozone developments. Rather than talking in terms of “transfers of power”, he argued the Government should recognise that “what in fact is going on within the whole of the European Union at the moment is a very big shift in the balance of power, with the likely creation of a Eurozone bloc that has a much bigger influence on the economic policies of the whole of the EU. It is about this important change in the balance of power that we should really be concerned, instead of going on about transfers of power” (ibid, cols 537–8). Lord Stoddart of Swindon (Independent Labour) disputed the benefits to the UK of the Eurozone and warned that “this first use of the simplified revision procedures is likely to be the thin end of the wedge”, stating that “once a provision is used, it sets a precedent and it will be much easier to use it on other occasions in the future” (ibid, cols 537–8). Lord Pearson of Rannoch (UKIP) argued that it was “not in this country’s interests to prop up the Euro” and said that if Mr Rompuy was correct that the EU would collapse as a consequence “what a pleasant prospect greets us” (ibid, col 535).

2.5 House of Lords European Union Committee (24 March 2011)

In March 2011, the European Union Sub-Committee A examined the proposed establishment of a stability mechanism for the Eurozone as part of its inquiry into the economic governance of the EU. The Committee said:

> On balance, the evidence we received was strongly in favour of the establishment of a permanent crisis mechanism incorporating both a financial assistance fund and a mechanism for an orderly sovereign default. We welcome, therefore, the Council's proposals for a European Stability Mechanism. The existence of a formal way of restructuring sovereign debt will encourage the market to price better the risks posed by individual Member States within the euro area, and encourage more responsible fiscal behaviour by Member States which will no longer be insulated from market forces by their membership of the euro. Conditionality is a vital element and we support its application. The ECB should be consulted on the terms and conditions of loans under the ESM.
>
> Despite differing views on whether outstanding sovereign debt would have to be subject to haircuts, our witnesses were strongly of the opinion that the private sector had to share the burden under a permanent crisis mechanism. Dr Mayer told us that taxpayers would not accept that "lenders, who in the past have benefited from elevated returns by lending money to the country, would be entirely spared". Dr Annunziata agreed and felt that "some form of private sector participation in the pain of haircuts is necessary and healthy."
>
> We welcome the principle, enshrined in the ESM agreement, that the private sector should share the burden of any restructuring of sovereign debt under the new ESM mechanism. It is only right that as they share in the rewards, they should share the risks.
>
> (House of Lords European Union Committee, *The Future of Economic Governance in the EU*, 24 March 2011, HL 124-I of session 2010–12, p 61, paras 232–4)

The report also considered whether the UK should voluntarily participate in the ESM. It was noted that the UK currently participated in the EFSM (as it is secured through the EU budget) and "through its contributions to the IMF was part of the rescue packages to Ireland and Greece. It also contributed separately to the Ireland rescue package through a bilateral loan". The Committee concluded:

> The ESM will be compulsory only for members of the euro area. However, we recognise that it might be in the UK's interests to contribute to rescue packages for Member States in difficulties, as happened with Ireland. In this light, we welcome the recent European Council proposals which will allow Member States outside the euro area to contribute on a bilateral basis when they consider it is in their national interests.
>
> (ibid, p 63, paras 242–3)

2.6 European Council Meeting (24–25 March 2011)

On 25 March 2011 it was unanimously agreed by the European Council to adopt December's draft Decision, subject to ratification in the 27 Member States. The agreed Decision said that the "stability mechanism will provide the necessary tool for dealing with such cases of risk to the financial stability of the euro area as a whole as have been experienced in 2010, and hence help preserve the economic and financial stability of the Union itself". It noted that "as this mechanism is designed to safeguard the financial stability of the euro area as a whole, Article 122(2) of the TFEU will no longer be needed for such purposes. The Heads of State or Government therefore agreed that it should not be used for such purposes" (2011/199/EU, para 4). Box 2 sets out the Decision's articles.

Box 2: European Council Decision of 25 March 2011, 2011/199/EU

Article 1

The following paragraph shall be added to Article 136 of the Treaty on the Functioning of the European Union:

> '3. 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.'

Article 2

Member States shall notify the Secretary-General of the Council without delay of the completion of the procedures for the approval of this Decision in accordance with their respective constitutional requirements. This Decision shall enter into force on 1 January 2013, provided that all the notifications referred to in the first paragraph have been received, or, failing that, on the first day of the month following receipt of the last of the notifications referred to in the first paragraph.

Article 3

This Decision shall be published in the Official Journal of the European Union.

2.7 Statement under Section 5 European Union Act 2011 (13 October 2011)

On 13 October 2011, the Government laid a statement before Parliament that explained the Treaty Amendment Decision would not require a referendum. This was because it only applied to Eurozone Member States and not to the UK. Primary legislation would be introduced to approve the Decision.

The statement was laid under the requirements of the European Union Act, which became law in 2011. The Act states that where the European Council has adopted a decision under the Simplified Revision Procedure of the TEU (Article 48(6)) the decision cannot be approved by a Minister unless three steps are met: a Ministerial statement is laid before Parliament as to whether a referendum is required; an Act of Parliament approving the decision; and a provision in the legislation indicating whether the referendum, exemption or significance condition has been met. Section 5(3) requires that the statement sets out whether, in the Minister's opinion, a referendum is required under section 4, which sets out the conditions that would require a referendum (*Statement under Section 5 of the European Union Act 2011*, October 2011, p 1).

3. Treaty Establishing the European Stability Mechanism

The Treaty establishing the ESM—separate to the Treaty Amendment Decision enabling it—was signed by the 17 Eurozone Member States on 2 February 2012 (T/ESM 2012/EN). It incorporated to the original Treaty (signed on 11 July 2011) decisions taken by those Member States at meetings on 21 July and 9 December 2011. Though it is related to it, this Treaty is separate to the more recent intergovernmental pact, *Treaty on*

Stability, Coordination and Governance in the Economic and Monetary Union (SCG Treaty). Suggested reading on the SCG Treaty (T/SCG/EN) can be found in section 4.

3.1 Scope

A European Council Factsheet on the ESM Treaty provides an overview of the ESM:

> Its purpose will be to provide financial assistance to its members (euro area Member States), experiencing or being threatened by severe financing problems, if indispensable for safeguarding financial stability in the euro area as a whole…
>
> The Treaty will have to be ratified by the 17 euro area Member States; it will enter into force and the ESM will become operational as soon as possible: the target date is July 2012, a year earlier than originally planned. As a permanent mechanism, the ESM will take over the tasks currently fulfilled by the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM). With the accelerated entry into force, the ESM will now operate alongside the EFSF for twelve months. Their joint lending capacity is currently set at €500 billion, subject to reassessment in March 2012.
>
> With the subscribed capital of €700 billion (€80 billion as paid in capital, the rest as callable), the initial maximum lending capacity of the ESM is set at €500 billion.
>
> (European Council Factsheet, *Treaty establishing the European Stability Mechanism*, 2 February 2012)

3.2 Main Provisions

The Treaty establishing the ESM consists of 48 Articles. The main provisions are:

- New financing tools: besides loans to beneficiaries, the ESM will provide precautionary financial assistance (article 14); loans for recapitalisations of financial institutions (article 15); and be able to purchase bonds of beneficiary Member States on primary and secondary markets (articles 17 and 18).

- More flexible pricing: replacing the original pre-defined margins on its loans, the conditions for financial assistance should be equivalent to the lending rates of the EU's balance of payments facility (for non-euro Member States), whilst covering financing and operating costs and including an appropriate margin (article 20).

- Link with fiscal compact: assistance will be provided under strict economic policy conditionality—the Member States must ratify the SCG Treaty and implement the balanced budget rule one year after entry into force.

- Emergency decision-making procedure: the most important ESM decisions will be taken by a board of Finance Ministers. The Treaty provides for an emergency procedure where financial assistance can be granted by qualified majority of 85 percent of votes, where both the Commission and European Central Bank have concluded not granting assistance would threaten the economic and financial stability of the euro area.

- IMF Practice on Private Sector involvement: the active technical and financial participation of the IMF will be sought. In line with IMF practice private sector involvement will be considered in cases where stability support is provided.

- Capital Contribution Timetable: Members are required in principle to ensure the required amount of paid-in capital gradually within the first five years of the ESM's creation.

(European Council Factsheet, *Treaty establishing the European Stability Mechanism*, 2 February 2012)

3.3 Eurozone Members' Contributions to ESM

		Subscriptions to Authorised Capital Stock	
Eurozone Member	**ESM Contribution (%)**	**Number of Shares**	**Capital Subscription (EUR)**
Belgium	3,4771	243,397	24,339,700,000
Germany	27,1464	1,900,248	190,024,800,000
Estonia	0,1860	13,020	1,302,000,000
Ireland	1,5922	111,454	11,145,400,000
Greece	2,8167	197,169	19,716,900,000
Spain	11,9037	833,259	83,325,900,000
France	20,3859	1,427,013	142,701,300,000
Italy	17,9137	1,253,959	125,395,900,000
Cyprus	0,1962	13,734	1,373,400,000
Luxembourg	0,2504	17,528	1,752,800,000
Malta	0,0731	5,117	511,700,000
Netherlands	5,7170	400,190	40,019,000,000
Austria	2,7834	194,838	19,483,800,000
Portugal	2,5092	175,644	17,564,400,000
Slovenia	0,4276	29,932	2,993,200,000
Slovakia	0,8240	57,680	5,768,000,000
Finland	1,7974	125,818	12,581,800,000
TOTAL	100	**7,000,000**	**700 000 000 000**

(Source: *Treaty Establishing the European Stability Mechanism*, T/ESM 2012/EN, Annexes 1 and 2)

4. Further Reading

The Foreign and Commonwealth Office website contains information sources regarding the Bill including:

- Foreign and Commonwealth Office and HM Treasury, *Factsheet: European Stability Mechanism* (23 April 2012)

- Foreign and Commonwealth Office, *What the Bill does?* (2012)

The website can be accessed at:

http://www.fco.gov.uk/en/global-issues/european-union/eu-act/eu-act-in-practice

A number of House of Commons Library Notes provide information on the subject of the ESM and the European economy. These include:

- *The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union: Views in Other EU Member States* (3 April 2012, SN06286)

- *In Brief: Provisions of the Eurozone Fiscal Compact and Economic Issues*, 30 March 2012, SN06274)

- *The Treaty on Stability, Coordination and Governance in the Economic and Monetary Union: Political Issues* (27 March 2012, RP12/14)

- *The Eurozone Crisis—Rescuing Greece* (22 February 2012, SN06232)

- *In Brief: Eurozone Crisis Documents* (15 February 2012, SN06160)

- *Amending the EU Treaty: The European Stability Mechanism* (21 December 2010, SN/IA/5812)

Two recent House of Lords Library Notes provide further background information:

- *Debate on 16 February: Recent Developments in the European Union* (10 February 2012, LLN 2012/004)

- *The European Union Today* (9 February 2012, LLN 2012/003)

The House of Lords European Union Committee, and its sub-committee on Economic and Financial Affairs, and International Trade, has published a number of reports about the financial crisis in Europe, the most recent of which is:

- *The Euro Area Crisis* (14 February 2012, HL Paper 260 of session 2010–12)

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