

EXPLANATORY MEMORANDUM ON EUROPEAN UNION LEGISLATION

PROPOSAL FOR A COUNCIL IMPLEMENTING DECISION APPROVING THE UPDATE OF THE MACROECONOMIC ADJUSTMENT PROGRAMME OF PORTUGAL

18 November 2013

Submitted by HM Treasury

SUBJECT MATTER

1. The combined eighth and ninth review of Portugal's financial assistance programme has been completed and it is proposed that a Decision is adopted by ECOFIN on 15 November 2013 approving its recommendations.
2. The Commission proposed a Council Decision amending Portugal's programme covered by EM 15335/13.
3. This proposal for a Council Decision is to give approval to the amendments recommended in the reviews, for the purposes of the "two pack", specifically Regulation (EU) No 472/2013. It is a provision designed to ensure that Council's approval is sought for any changes to programme conditionality in future programmes to euro area Member States that do not include assistance from the European Financial Stabilisation Mechanism (EFSM), so that these changes are embedded in Treaty processes, including the enhanced surveillance measures set out in Regulation (EU) No 472/2013.
4. In this instance, and for any future changes to the Portuguese programme, this is a purely procedural step as the substance of the changes to conditionality is considered separately by ECOFIN (see EM 15335/13).

Scrutiny history:

5. EM 9776/11 on the Council Decision granting union financial assistance to Portugal was submitted on 3 June 2011, and was debated in the House on the 10 October 2011.
6. Following the combined eighth and ninth review of Portugal, EM 15335/13 on amending implementing decision 2011/334/EU granting financial assistance to Portugal was submitted on 1 November 2013. It was cleared by the Commons European Scrutiny Committee as not legally or politically important on 6 November and in the House of Lords European Union Committee by Urgent Sift on 5 November.

MINISTERIAL RESPONSIBILITY

7. The Chancellor of the Exchequer has responsibility for United Kingdom policy on European Union monetary and economic issues. The Foreign and Commonwealth Secretary is responsible for overall United Kingdom policy towards the European Union.

INTEREST OF DEVOLVED ADMINISTRATIONS

8. European finance policy is a reserved matter under the UK's devolution settlements and no devolved administration interests arise. The devolved administrations have therefore not been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

i. Legal basis

9. Article 7(5) of Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability, in conjunction with Articles 136 and 121(6) of the Treaty on the Functioning of the European Union.

ii. Legislative Procedure

10. Council on the basis of a proposal from the Commission.

iii. Voting procedure

11. Qualified majority.

iv. Impact on United Kingdom Law

12. None – this proposal is addressed to Portugal only.

v. Application to Gibraltar

13. Not applicable.

vi. Analysis of Fundamental Rights Compliance

14. Not applicable.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

15. Not applicable.

SUBSIDIARITY

16. This is an approval of an implementing decision approving the update of an existing programme.

POLICY IMPLICATIONS

17. The decision is addressed to Portugal only and has no direct implications for the UK. For euro area-only programmes the only Council procedure arises from the "two pack" as the decision to grant financial assistance would be made by the European Stability Mechanism Board of Governors. In that context this procedural step provides the Council visibility of programme conditionality.

REGULATORY IMPACT ASSESSMENT

18. Not applicable.

FINANCIAL IMPLICATIONS

19. This Decision has no additional financial implications for the UK, beyond our continuing contingent liability through the use of the EFSM.

20. The Council agreed in May 2011 that Union assistance to Portugal will be provided up to €26 billion (£20.1 billion). This will come from the EFSM, which was established by Council Regulation (EU) No 407/2010.

21. Only in the event that Portugal was to permanently default on loan repayments would the EU budget be called on to meet the cost of that repayment.

CONSULTATION

22. Not applicable.

TIMETABLE

23. The proposal was published on 6 November 2013 and the Decision will be adopted by ECOFIN on 15 November. Only euro area Member States are eligible to vote.



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