

## III

*(Preparatory acts)*

## EUROPEAN CENTRAL BANK

## OPINION OF THE EUROPEAN CENTRAL BANK

of 7 March 2012

on strengthened economic governance of the euro area

(CON/2012/18)

(2012/C 141/03)

**Introduction and legal basis**

On 21 December 2011, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a regulation of the European Parliament and of the Council on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area <sup>(1)</sup> (hereinafter the 'proposed regulation on monitoring draft budgetary plans') and on a proposal for a regulation of the European Parliament and of the Council on the strengthening of economic and budgetary surveillance of Member States experiencing or threatened with serious difficulties with respect to their financial stability in the euro area <sup>(2)</sup> (hereinafter the 'proposed regulation on strengthening surveillance procedures') (hereinafter together the 'proposed regulations').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union since the proposed regulations are relevant to the primary objective of the European System of Central Banks of maintaining price stability, as referred to in Articles 127(1) and 282(2) of the Treaty and Article 2 of the Statute of the European System of Central Banks and of the European Central Bank. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

**General observations**

As stated in Opinion CON/2011/13 <sup>(3)</sup>, the current crisis has demonstrated very clearly that ambitious reform to the economic governance framework is in the profound and overwhelming interest of the European Union, the Member States and, in particular, the euro area. The reinforcement of the Stability and Growth Pact (SGP), which is embedded in the legislative package of six legal acts <sup>(4)</sup> that entered into force on 13 December 2011 created a more robust Union framework for economic and fiscal policy coordination and surveillance. Given that being part of monetary union has far-reaching implications and

<sup>(1)</sup> COM(2011) 821 final.

<sup>(2)</sup> COM(2011) 819 final.

<sup>(3)</sup> Opinion CON/2011/13 of 16 February 2011 on economic governance reform in the European Union.

<sup>(4)</sup> Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area (OJ L 306, 23.11.2011, p. 1); Regulation (EU) No 1174/2011 of the European Parliament and of the Council of 16 November 2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area (OJ L 306, 23.11.2011, p. 8); Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 306, 23.11.2011, p. 12); Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances (OJ L 306, 23.11.2011, p. 25); Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 306, 23.11.2011, p. 33); and Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States (OJ L 306, 23.11.2011, p. 41).

demands a much closer coordination and surveillance to ensure the stability and sustainability of the euro area as a whole, the Euro summit of 26 October 2011 stated its commitment to implement additional measures.

In line with its position expressed in the context of the adoption of the above mentioned legal acts, calling for a quantum leap for the euro area, the ECB welcomes the proposed regulations and recommends some amendments aimed at: (a) further strengthening the budgetary discipline of the euro area Member States; and; (b) further enhancing the surveillance of the euro area Member States experiencing or threatened with serious difficulties with respect to their financial stability, irrespective of whether they receive financial assistance or may need to receive such assistance.

The ECB sees the proposed regulations as compatible with and complementary to the new Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (hereinafter the 'TSCG') as agreed at the European Council meeting of 30 January 2012.

Finally, a condition for progressing with the above mentioned quantum leap is that Member States timely and vigorously implement their obligations under the TSCG, and the proposed regulations when adopted.

#### **I. Proposed regulation on monitoring draft budgetary plans**

This proposed regulation contains provisions that will enhance the budgetary surveillance of draft budgetary plans by the European Commission, and provides for closer monitoring procedures to ensure the correction of excessive deficits. The ECB welcomes the proposed regulation which, when adopted, will complement the reinforced SGP. It is a further step towards strengthening Union economic governance with regard to the euro area Member States and ensuring the proper functioning of Economic and Monetary Union. In particular, it would: (a) require euro area Member States to have in place numerical fiscal rules on the budget balance that implement their medium-term budgetary objectives in their national budgetary processes, and an independent national fiscal council to produce independent macroeconomic and/or budgetary forecasts for annual medium-term fiscal plans and draft budget laws; (b) strengthen the monitoring and assessment of the draft budgetary plans of all euro area Member States, including setting up a common budgetary timeline, requiring the provision of additional information, and introducing the possibility for the Commission to adopt an opinion on a draft budgetary plan and to request a revised plan if particularly serious non-compliance with SGP obligations is identified; (c) help to ensure the timely correction of excessive deficits through closer monitoring of Member States that are subject to the excessive deficit procedure and to Commission recommendations on the adoption of further measures in the case of risk of non-compliance with Council recommendations; and (d) ensure the high quality of general government accounts through a comprehensive independent audit, which complements the recently introduced minimum requirements concerning the independence of national statistical authorities and the possibility of sanctions in the case of falsification of budgetary statistics.

At the same time, there is room for improvement to make the proposed regulation more forceful and effective. In this context, the ECB has several observations.

1. To further strengthen the regulation, the Commission should — to ensure early adherence to stability programmes <sup>(1)</sup> — request euro area Member States not only to submit a draft budgetary plan <sup>(2)</sup> but also updated medium-term fiscal plans. These plans should also cover government debt developments, implicit and contingent government liabilities and other data relevant to an assessment of the longer-term sustainability of public finances <sup>(3)</sup>. This will allow the Commission to monitor and assess the draft budgetary plans for the forthcoming year, taking into account the medium-term budgetary implications of new measures, as well as any country-specific risks to the sustainability of public finances.

<sup>(1)</sup> See Article 2, which refers to Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1).

<sup>(2)</sup> See Article 5(1).

<sup>(3)</sup> See Article 5(3) and the proposed Amendment 3 in the Annex to this Opinion.

2. The ECB proposes that the Commission should issue an opinion where the draft budgetary plan would lead to non-compliance with the budgetary policy obligations laid down in the Stability and Growth Pact and a structural deficit higher than that foreseen in the stability programme of a Member State; or where the government debt ratio is above 60 % of gross domestic product and not declining at a sufficient pace as defined in the Stability and Growth Pact; or where the Commission identifies risks to fiscal sustainability. The Commission should thereby take into account any Council opinion on the stability programme. The ECB also recommends making it explicit (in Article 6(1)) that the Commission assesses the quality of the process of collecting the underlying data, which could lead for example to an opinion on the quality of budgetary statistics or the lack of independence of macroeconomic and/or budgetary forecasts <sup>(1)</sup>.
3. The Commission should in its opinion request a revised draft budgetary plan from euro area Member States in the case of non-compliance with the budgetary policy obligations laid down in the Stability and Growth Pact. In addition, the Commission should request a revised draft budgetary plan from Member States in the case of non-compliance of a draft budget with the deficit and/or debt path specified in the stability programme of a Member State, taking into account any Council opinion on the stability programme, or when it identifies risks to fiscal sustainability (i.e. this should not only be requested in cases of 'particularly serious non-compliance' with the budgetary policy obligations for the forthcoming year as laid down in the SGP, but as soon as there is any non-compliance or when other risks to fiscal sustainability have been identified <sup>(2)</sup>).
4. The proposed regulation provides that the Commission requests a revised draft budgetary plan in the case of 'particularly serious non-compliance' with the budgetary policy obligations laid down in the SGP. The ECB proposes amending this wording to 'non-compliance' to ensure timely revision of the draft budgetary plan.

To strengthen the corrective arm of the SGP, the ECB also considers warranted a closer follow-up of the adequacy of corrective measures — if the timely correction of the excessive deficit seems in doubt — through stronger use of peer pressure in the Eurogroup, the Council and, ultimately, the European Council, as well as a greater use of (reputational) sanctions <sup>(3)</sup>.

## II. Proposed regulation on strengthening surveillance procedures

This proposed regulation lays down a surveillance mechanism applicable to euro area Member States experiencing or threatened with financial market tensions and/or that receive financial assistance. Overall, the proposed regulation is welcome, as it gives an explicit basis to the practice of stronger monitoring of Member States experiencing financial market tensions or receiving financial assistance. The involvement of the ECB and European Supervisory Authorities is also welcome. Nevertheless, the ECB has several observations.

1. The ECB welcomes the fact that even if a Member State is not receiving any kind of financial support, the Commission may decide to subject it to enhanced surveillance if it is experiencing severe financial difficulties (it would be preferable to use common terminology throughout the proposed regulation, which currently refers to both 'serious' (e.g. Article 1) and 'severe' difficulties (e.g. Article 2)). In addition, providing examples of what could constitute a serious difficulty would facilitate the understanding of the proposed regulation, contrary to developing an exhaustive definition, which would not be prudent. Indeed, such a definition would prevent the application of the proposed regulation to situations triggered by later market developments which could not have been foreseen at the time it was adopted <sup>(4)</sup>.
2. As the sources of difficulties of the Member States under enhanced surveillance might easily encompass or generate systemic risks, action in this field could benefit from the involvement of the European Systemic Risk Board (ESRB). It would therefore be useful to inform the ESRB, where relevant, about the results of the enhanced surveillance.

<sup>(1)</sup> See the proposed Amendment 5 in the Annex to this Opinion.

<sup>(2)</sup> See the proposed Amendment 4 in the Annex to this Opinion.

<sup>(3)</sup> See the proposed Amendments 6 and 9 in the Annex to this Opinion.

<sup>(4)</sup> See the proposed Amendment 4 in the Annex to this Opinion.

3. Another crucial feature of the proposed regulation is that the Council *may* recommend that a Member State under enhanced surveillance seeks financial assistance and prepares a macroeconomic adjustment programme if it is found that more measures are needed and the Member State's financial situation has significant adverse effects on financial stability in the euro area as a whole <sup>(1)</sup>. This is an important provision as it strongly encourages a Member State to ask for financial assistance and to avoid unnecessary delays where this could have detrimental consequences for financial stability in the euro area as a whole. This provision could be reinforced by *obliging* the Council ('the Council *shall*') to make a recommendation of this kind.
4. Regarding the differentiation between precautionary assistance with enhanced surveillance and financial assistance with strongly reinforced monitoring, it is important to stress that adjustment requirements have to be ambitious in either case of assistance. Member States should be encouraged not to avoid a more ambitious adjustment programme by applying for precautionary assistance instead of direct financial assistance.
5. It is particularly welcome that the proposed regulation obliges Member States to consult with the Council, the Commission and the ECB prior to approaching international lenders for financial assistance <sup>(2)</sup>. The ECB notes that obligations of the euro area Member States wishing to obtain financial assistance should entail more than just information sharing. Indeed such Member States should discuss the possibilities available under existing Union or euro area financial instruments and the facilities of international financial institutions and lenders. The proposed strengthened surveillance procedure could be further reinforced in several ways. The specific nature of financial assistance granted on a precautionary basis is recognised <sup>(3)</sup>, as Member States that have been granted such assistance are exempted from enhanced surveillance as long as the credit line is not drawn, provided that access to such precautionary assistance is not conditional on the adoption of new policy measures. However, the continuous monitoring by the Commission of the eligibility criteria laid down in Union and intergovernmental financial assistance instruments should also apply to Member States that have been granted access to financial assistance on a precautionary basis, even if this assistance is not linked to the adoption of new policy measures. In any case, if a Member State judges it necessary to request precautionary financial assistance, a closer monitoring seems justified.
6. The ECB notes that the proposed regulation unconditionally excludes Member States benefiting from financial assistance granted on a precautionary basis and from loans made for recapitalising financial institutions from the assessment of the sustainability of government debt and the duty to prepare a macroeconomic adjustment programme <sup>(4)</sup>. The ECB recommends keeping open the possibility of assessing the sustainability of government debt also with regard to Member States under a precautionary programme. This is even more warranted if a Member State receives a loan to recapitalise financial institutions, given the close relationship between fiscal sustainability and financial sector instability and the impact of the loan on the overall level of indebtedness of the Member State. The exemption from preparing a macroeconomic adjustment programme should not exclude the provision of technical assistance and the involvement of parliaments <sup>(5)</sup>.
7. Avoiding spillover effects is a key objective of enhanced surveillance of euro area Member States experiencing financial tensions and therefore it is important to also empower the Council to initiate and pursue the enhanced surveillance procedures by requesting the Commission to initiate enhanced surveillance, request additional information on the situation of financial institutions, perform additional stress tests or request additional action <sup>(6)</sup>.
8. The proposed regulation requires a Member State subject to an adjustment programme experiencing insufficient administrative capacity or significant problems in the implementation of the programme to seek technical assistance from the Commission <sup>(7)</sup>. The need for such assistance is also triggered by the

<sup>(1)</sup> See Amendment 8 in the Annex to this Opinion.

<sup>(2)</sup> See Article 4.

<sup>(3)</sup> See Article 2(3).

<sup>(4)</sup> See Article 13 of the proposed regulation.

<sup>(5)</sup> See Article 6(6)-6(8) of the proposed regulation and proposed amendment 10 in the Annex to this Opinion.

<sup>(6)</sup> See the proposed Amendment 7 in the Annex to this Opinion.

<sup>(7)</sup> See Article 6(6).

heavy burden that a macroeconomic adjustment programme entails for the Member State concerned, and it would, therefore, be useful to add the possibility for other Union institutions and Member States to provide such assistance, and to contribute with their expertise.

9. In addition, the setting up of a permanent resident advisor in the Member State concerned, who would advise the authorities of this Member State on the implementation of the adjustment programme and coordinate with the Union institutions and Member States involved in the technical assistance would be useful.
10. The ECB understands that where a Member State will rely only on financial assistance provided by the European Financial Stabilisation Mechanism, European Financial Stability Facility and European Stability Mechanism, rather than on financial assistance provided by any third countries or financial institutions, the macroeconomic adjustment programme will de facto reflect the economic policy conditions agreed between all parties in the context of granting access to such financial assistance. For reasons of legal clarity, the ECB recommends expressly stating this understanding in Article 6 of the proposed regulation.

### III. Relationship with the TSCG

The adoption of the TSCG has as a consequence the amendment of the proposed regulation on monitoring draft budgetary plans. Amongst other things, the ECB suggests that this regulation should cover to the extent possible: (a) the provisions on numerical fiscal rules, including the timetable for rapid convergence to the medium-term objective, including the scope for temporary deviations due to exceptional circumstances; (b) the main elements of the automatic correction mechanism; (c) the requirement for Member States that have been made subject to the excessive deficit procedure to put in place budgetary and economic partnership programmes; and (d) the *ex ante* reporting of public debt issuance plans.

If such amendments are not introduced into the proposed regulation, the ECB would strongly support the approach of presenting further legislative proposals. It indeed notes that the Commission's intention to present legislative proposals on matters (c) and (d) above, along with proposals on the coordination of major economic policy reform plans of the Member States, was recorded in the eighth recital of the TSCG. The ECB strongly supports this approach.

Regarding the introduction of a new range for the medium-term objectives as mentioned in the ninth recital of the TSCG, the ECB notes that if this range is not introduced into the proposed regulation the Commission could present a legislative proposal to introduce it. The ECB would welcome such a proposal.

Regarding the automatic correction mechanism, in addition to mentioning its main elements in the proposed regulation as the ECB suggests, the Commission will provide for all the other necessary elements in accordance with Article 3.1(e) and Article 3.2 of the TSCG.

When further amendments to the proposed regulations or further legislative initiatives are undertaken as a consequence of the TSCG through the Union legal framework and provisions conferring additional tasks on the Council, the reverse qualified majority voting rule should be used where appropriate. A decision on non-compliance with the policy requirements contained in a programme under Article 6(5) of the proposed regulation on strengthening surveillance procedures is an acute case where the application of the reverse qualified majority voting rule is recommendable.

In any case, where the provisions of the TSCG are not sufficiently detailed, for example the provision on better coordinating the planning of public debt issuances, also in view of recent experience during the euro area government debt crisis, the proposed regulation should contain more specific provisions. These should draw on the already established coordination by the national debt management offices in the framework of the EFC Subcommittee on EU sovereign debt markets, and clearly go beyond the current ad hoc coordination and information exchange.

Finally, regarding the deadlines foreseen in the TSCG and the proposed regulation on monitoring draft budgetary plans, a rapid ratification procedure of the TSCG and the related amendment to constitutions or equivalent legal acts will ensure that the deadline for compliance with the fiscal rules provided for in the proposed regulation, for example six months after its entry into force, can be effectively met <sup>(1)</sup>.

### **Drafting proposals**

Where the ECB recommends amendments to the Commission proposals, specific drafting proposals are set out in the Annex accompanied by explanatory text to this effect.

Done at Frankfurt am Main, 7 March 2012.

*The President of the ECB*  
Mario DRAGHI

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<sup>(1)</sup> See Article 12(3) of the proposed regulation.

## ANNEX

## Drafting proposals regarding the proposed regulation on monitoring draft budgetary plans

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
<b>Amendment 1</b>	
Article 2(1)(1), (6)(new) and (7)(new)	
<p>(1) “independent fiscal council” means a body endowed with functional autonomy vis-à-vis the fiscal authorities of the Member State in charge of monitoring the implementation of national fiscal rules;</p>	<p>(1) “independent fiscal council” means a body endowed with functional autonomy vis-à-vis the fiscal authorities of the Member State in charge of monitoring <b>and assessing</b> the implementation of national fiscal rules, <b>and entrusted with technical tasks related to fiscal policymaking [to be further specified by the Commission]</b>;</p> <p>...</p> <p>(6) “annual structural balance of the general government” means the annual cyclically-adjusted balance net of one-off and temporary measures;</p> <p>(7) “exceptional circumstances” means an unusual event outside the control of the Member State which has a major impact on the financial position of the general government, or periods of severe economic downturn for the euro area [or the Union] as a whole.’</p>

## Explanation

The tasks of the independent fiscal council need to be clearly defined by the Commission. The definitions need to reflect those in the TSCG (Article 3(3)). The ECB proposes using these terms in Article 4.

## Amendment 2

Article 4(1), (1a)(new), (1b)(new) and (1c)(new)

<p>‘1. Member States shall have in place numerical fiscal rules on the budget balance that implement in the national budgetary processes their medium-term budgetary objective as defined in Article 2a of Regulation (EC) No 1466/97. Such rules shall cover the general government as a whole and be of binding, preferably constitutional, nature.’</p>	<p>‘1. Member States shall have in place numerical fiscal rules on the budget balance that implement in the national budgetary processes their medium-term budgetary objective, as defined in Article 2a of Regulation (EC) No 1466/97. Such rules shall cover the general government as a whole and be of binding, preferably constitutional, nature. <b>Member States may temporarily deviate from the medium-term objective or the adjustment path towards it only in exceptional circumstances, provided that this does not endanger fiscal sustainability in the medium term.</b></p> <p>1a. Member States shall ensure that the annual budgetary position of the general government is balanced or in surplus. To that end, as a special agreement among Member States to go beyond Regulation (EC) No 1466/97, the annual structural balance of the general government shall not exceed a country-specific reference value, with a limit of a structural deficit of 0,5 % of GDP. Where the general government debt level is significantly below 60 % of</p>
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Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
	<p><b>GDP and risks to long-term fiscal sustainability are low, the country-specific reference value for the annual structural balance of the general government may reach a limit of a structural deficit of at most 1 % of nominal GDP.</b></p> <p><b>1b. Member States shall put in place a correction mechanism to be triggered automatically with the aim of correcting significant observed deviations from the medium-term objective or the adjustment path towards it, including their accumulated impact on government debt dynamics. [The nature, size and time frame of the correction mechanism, including in the case of exceptional circumstances, are laid down in an annex to this Regulation.]</b></p> <p><b>1c. Member States shall ensure rapid convergence of their medium-term objectives on the basis of ambitious and binding time frames proposed by the Commission, which take country-specific fiscal sustainability risks into consideration. The proposed time frames shall be made public.'</b></p>

*Explanation*

The proposed regulation should include the main principles of the TSCG (Article 3 in this case).

**Amendment 3**

Article 5(3)(g) (new) and (3a)(new)

	<p><b>'(g) detailed information on general government debt developments, as well as other data relevant to an assessment of the country-specific risks to the sustainability of public finances, in particular an overview of implicit liabilities and of contingent liabilities with potentially large impacts on public budgets, as defined in Article 14(3) of Council Directive 2011/85/EU.</b></p> <p><b>3a. Member States shall report <i>ex ante</i> their public debt issuance plans for the general government on a timely basis to the Commission and the Eurogroup with a view to better coordinating and monitoring them.'</b></p>
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*Explanation*

The monitoring requirements should include a reference to government debt and to implicit and contingent liabilities in order to capture risks to longer-term fiscal sustainability. Further, the proposed regulation should also refer to the *ex ante* reporting of public debt issuance plans as per Article 6 and recital 8 of the TSCG.

**Amendment 4**

Article 5(5), first subparagraph

<p>'5. Where the Commission identifies particularly serious non-compliance with the budgetary policy obligations laid down in the Stability and Growth Pact, it shall, within two weeks from the submission of the draft budgetary plan, request a revised draft budgetary plan from the Member State concerned. This request shall be made public.'</p>	<p>'5. Where the Commission identifies <del>particularly serious</del> non-compliance with the budgetary policy obligations laid down in the Stability and Growth Pact, it shall, within two weeks from the submission of the draft budgetary plan, request a revised draft budgetary plan from the Member State concerned. This request shall be made public.'</p>
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Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
	<p><b>Moreover, the Commission shall request a revised draft budgetary plan from Member States in the case of non-compliance of a draft budget with the deficit and/or debt path specified in the stability programme of the Member State concerned, taking into account any Council opinion on the stability programme, or when it identifies risks to fiscal sustainability.'</b></p>

*Explanation*

The proposed regulation should ensure that draft budgetary plans are fully in line with the budgetary policy obligations for the forthcoming year laid down in the SGP, as well as with the stability programme targets, taking account of any Council opinion on the stability programme. Also, when the Commission identifies risks to fiscal sustainability it should ask for a revised draft budgetary plan.

**Amendment 5**

Article 6(1)

<p>'1. The Commission shall, if necessary, adopt an opinion on the draft budgetary plan by 30 November.'</p>	<p><b>'1. The Commission shall assess the draft budgetary plans, taking into account the medium-term budgetary implications of new measures, and shall assess the implications for fiscal sustainability. It shall also assess the quality of the process of collecting the underlying data. The Commission shall, if necessary, adopt an opinion on the draft budgetary plan by 30 November. An opinion shall always be adopted in any of the following situations: (a) if the draft budgetary plans would lead to non-compliance with the budgetary policy obligations laid down in the Stability and Growth Pact; (b) if the draft budgetary plans would lead to a structural deficit higher than that foreseen in the stability programme of a Member State; (c) if the government debt ratio is above 60 % of GDP and not declining at a sufficient pace as defined in the Stability and Growth Pact; or (d) if the Commission identifies risks to fiscal sustainability.'</b></p>
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*Explanation*

For the effectiveness of the proposed regulation, it is important to specify the circumstances in which the Commission will have to adopt an opinion.

**Amendment 6**

Article 6(4)

<p>'4. The Eurogroup shall discuss opinions of the Commission on the national budgetary plans and the budgetary situation and prospects in the euro area as a whole on the basis of the overall assessment made by the Commission in accordance with paragraph 3. The assessment shall be made public.'</p>	<p><b>'4. The Eurogroup and, in the case of repeated non-compliance of Member States, the European Council, shall discuss Commission opinions on the national budgetary plans. The Eurogroup and, in the case of repeated non-compliance of Member States, the European Council, shall also discuss the budgetary situation and prospects in the euro area as a whole on the basis of the overall assessment made by the Commission in accordance with paragraph 3. The assessment shall be made public.'</b></p>
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*Explanation*

The amendment should foster peer pressure in the case of repeated non-compliance by Member States.

Text proposed by the Commission

Amendments proposed by the ECB (1)

**Amendment 7**

Article 7(1), (1a)(new) and (2)

'1. When the Council decides in accordance with Article 126(6) of the Treaty that an excessive deficit exists in a Member State, the Member State concerned shall be subject to paragraphs 2 to 5 of this Article, until the abrogation of its excessive deficit procedure.

2. The Member State subject to closer monitoring shall without delay carry out a comprehensive assessment of in-year budgetary execution for the general government and its sub-sectors. ...'

'1. When the Council decides, in accordance with Article 126(6) of the Treaty, that an excessive deficit exists in a Member State, the Member State concerned shall be subject to paragraphs **1a** to **6** of this Article, until the abrogation of its excessive deficit procedure.

**1a. A Member State subject to an excessive deficit procedure shall put in place a budgetary and economic partnership programme including a detailed description of the structural reforms necessary to ensure an effective and durable correction of their excessive deficits.**

2. ~~The~~ Member State subject to closer monitoring shall without delay carry out a comprehensive assessment of in-year budgetary execution for the general government and its sub-sectors.'

*Explanation*

The proposed regulation should include the main principles of the TSCG (Article 5 in this case).

**Amendment 8**

Article 7(3), first subparagraph

'3. Member State shall report regularly to the Commission and to the Economic and Financial Committee or any subcommittee it will designate for that purpose, for the general government and its sub-sectors, the in-year budgetary execution, the budgetary impact of discretionary measures taken on both the expenditure and the revenue side, targets for the government expenditure and revenues, as well as information on the measures adopted and the nature of those envisaged to achieve the targets. The report shall be made public.'

'3. **The** Member State shall report regularly to the Commission and to the Economic and Financial Committee or any subcommittee it will designate for that purpose, for the general government and its sub-sectors, the in-year budgetary execution, the budgetary impact of discretionary measures taken on both the expenditure and the revenue side, targets for the government expenditure and revenues, as well as information on the measures adopted and the nature of those envisaged to achieve the targets. **The Member State shall also report on the implementation of the budgetary and economic partnership programme and the structural reforms necessary to ensure an effective and durable correction of its excessive deficit.** The report shall be made public.'

*Explanation*

In line with Amendment 7.

**Amendment 9**

Article 8(3a)(new)

'3a. **The Eurogroup and the Council shall discuss the adequacy of the measures taken by the Member State and, if necessary, the Council shall propose further measures to ensure compliance with the deadline to correct the excessive deficit or an adjustment of the budgetary and economic partnership programme. If**

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
	<b>the Member State does not implement such further measures, the European Council shall discuss the situation and propose any further action which it considers necessary.'</b>

*Explanation*

*The amendment should foster peer pressure in the Eurogroup and the Council, and in the case of repeated non-compliance introduce the possibility for the European Council to propose any further action to be taken by the Member State.*

<sup>(1)</sup> Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

### Drafting proposals regarding the proposed regulation on strengthening surveillance procedures

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
<b>Amendment 1</b>	
Recital 1	
<p>'1. The unprecedented global crisis that has hit the world over the last three years has seriously damaged economic growth and financial stability and provoked a strong deterioration in the government deficit and debt position of the Member States, leading a number of them to seek financial assistance outside the framework of the Union.'</p>	<p>'1. The unprecedented global crisis that has hit the world over the last three years has seriously damaged economic growth and financial stability and provoked a strong deterioration in the government deficit and debt position of the Member States, leading a number of them to seek financial assistance <b>both within and</b> outside the framework of the Union.'</p>

#### Explanation

*Financial assistance was also provided by the European Financial Stabilisation Mechanism (EFSM), which is a Union instrument.*

<b>Amendment 2</b>	
Recital 4	
<p>'4. A Member State whose currency is the euro should be subject to enhanced surveillance when it is experiencing — or at risk of experiencing — severe financial disturbance, with a view to ensuring its swift return to a normal situation and to protecting the other euro area Member States against possible negative spillover effects. This enhanced surveillance should include a wider access to the information needed for a close monitoring of the economic, fiscal and financial situation and a regular reporting to the Economic and Financial Committee (EFC) or to any subcommittee the latter may designate for that purpose. The same modalities of surveillance should apply to Member States requesting precautionary assistance from the European Financial Stability Facility (EFSF), the European Stability Mechanism (ESM) the International Monetary Fund (IMF) or another international financial institution.'</p>	<p>'4. A Member State whose currency is the euro should be subject to enhanced surveillance when it is experiencing — or at risk of experiencing — severe financial disturbance, with a view to ensuring its swift return to a normal situation and to protecting the other euro area Member States against possible negative spillover effects. This enhanced surveillance should include a wider access to the information needed for a close monitoring of the economic, fiscal and financial situation and a regular reporting to the Economic and Financial Committee (EFC) or to any subcommittee the latter may designate for that purpose. The same modalities of surveillance should apply to Member States requesting precautionary assistance from the European Financial Stability Facility (EFSF), <b>the European Financial Stabilisation Mechanism (EFSM)</b>, the European Stability Mechanism (ESM) the International Monetary Fund (IMF) or another international financial institution.'</p>

#### Explanation

*According to Article 1, the scope of the proposed regulation includes the EFSM.*

<b>Amendment 3</b>	
Article 1	
<p>'1. This Regulation sets out provisions for strengthening the economic and budgetary surveillance of Member States experiencing or threatened with serious difficulties with respect to their financial stability and/or that receive or may receive financial assistance from one or several other States, the European Financial Stability Facility (EFSF), the</p>	<p>'1. This Regulation sets out provisions for strengthening the economic and budgetary surveillance of Member States experiencing or threatened with serious difficulties with respect to their financial stability and/or that <b>have requested or</b> receive <del>or may receive</del> financial assistance from one or several other States, the European Financial</p>

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
European Financial Stability Mechanism (EFSM), the European Stability Mechanism (ESM) or other International Financial Institutions (IFI), such as the International Monetary Fund (IMF).'	Stability Facility (EFSF), the European Financial <b>Stabilisation</b> Mechanism (EFSM), the European Stability Mechanism (ESM) or other international financial institutions (IFI), such as the International Monetary Fund (IMF).'

*Explanation*

*For legal certainty, it is preferable to use the same terms throughout the proposed regulation.*

**Amendment 4**

Article 2(1)

'1. The Commission may decide to make a Member State experiencing severe difficulties with regard to its financial stability subject to enhanced surveillance. The Member State concerned shall be given the possibility to express its views beforehand. The Commission shall decide every six months whether to prolong the enhanced surveillance.'	'1. The Commission <del>may shall decide to</del> make a Member State experiencing <b>or threatened with severe serious</b> difficulties with regard to its financial stability, <b>which are likely to have adverse spillover effects on other euro area Member States</b> , subject to enhanced surveillance. The Member State concerned shall be given the possibility to express its views beforehand <b>in the EFC, or to any subcommittee the latter may designate for that purpose</b> . The Commission shall decide every six months whether to prolong the enhanced surveillance <b>and shall report its findings to the EFC, or to any subcommittee the latter may designate for that purpose. The Council may request the Commission to initiate, continue or finalise its enhanced surveillance.</b> '
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*Explanation*

*For legal certainty, it is preferable to use the same terms throughout the proposed regulation. A threat of serious difficulties would also warrant enhanced surveillance to prevent the situation from deteriorating at an early stage.*

*In view of potential serious spillover effects and risks to the stability of the euro area, the Commission's discretion should be restricted when deciding whether to put a Member State under enhanced surveillance, which is achieved with the use of the word 'shall'. In addition, the EFC or any designated subcommittee should be kept informed about the decision to put a Member State under enhanced surveillance and the progress of Member States under enhanced surveillance. This would allow the EFC to prepare an informed decision for the Council in relation to any steps of the procedure. Without prejudice to the Commission's competence, the Council should be empowered to request the Commission to initiate or pursue enhanced surveillance.*

**Amendment 5**

Article 2(2)

'2. The Commission shall decide to make a Member State receiving a financial assistance on a precautionary basis from one or several other States, the EFSF, the ESM or any other International Financial Institution, such as the IMF, subject to enhanced surveillance. The Commission shall establish a list of the precautionary financial assistance instruments concerned and keep it updated to take into account possible changes in the financial support policy of the EFSF, ESM or of any other relevant International Financial Institution.'	'2. The Commission shall decide to make a Member State <b>requesting access or</b> receiving a financial assistance on a precautionary basis from one or several other States, the EFSF, <b>the EFSM</b> , the ESM or any other International Financial Institution, such as the IMF, subject to enhanced surveillance. The Commission shall establish a list of the precautionary financial assistance instruments concerned and keep it updated to take into account possible changes in the financial support policy of the EFSF, ESM or of any other relevant International Financial Institution.'
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Text proposed by the Commission	Amendments proposed by the ECB (1)
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*Explanation*

*Once again, enhanced surveillance should start at an early stage, as soon as a Member State has requested financial assistance. Provision needs to be clearer, in order to avoid any doubt regarding the automaticity of a Member State coming under the enhanced surveillance as of the moment it has requested the assistance. According to Article 1, the scope of the proposed regulation includes financial assistance provided by the EFSM.*

**Amendment 6**

Article 2(3)

<p>'3. Paragraph 2 shall not apply to a Member State receiving a financial assistance on a precautionary basis in the form of a credit line which is not conditioned to the adoption of new policy measures by the concerned Member State, as long as the credit line is not drawn.'</p>	<p>'3. Paragraph 2 shall not apply to a Member State receiving financial assistance on a precautionary basis in the form of a credit line which is not conditioned to the adoption of new policy measures by the concerned Member State, as long as the credit line is not drawn. <b>The Commission shall monitor the ongoing compliance with the eligibility criteria laid down in Union and intergovernmental financial assistance instruments after the said financial assistance is granted.'</b></p>
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*Explanation*

*The exemption of Member States receiving financial assistance on a precautionary basis in the form of a credit line which is not conditional on the adoption of new policy measures by the concerned Member State, as long as the credit line is not drawn, should not exempt them from being monitored regarding compliance with the eligibility criteria.*

**Amendment 7**

Article 3(3)

<p>'3. On a request from the Commission, the Member State under enhanced surveillance shall:</p> <p>...'</p>	<p>'3. On a request from the Commission, the Member State under enhanced surveillance shall:</p> <p>...</p> <p><b>The Council may request the Commission to ask the Member State under enhanced surveillance to perform the actions set out in points (a), (b) and (d) and/or to be subject to the requirement set out in point (c).'</b></p>
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*Explanation*

*In view of possible large spillovers, it would be useful if the Council could request, through the intermediary of the Commission, additional information or specific actions enumerated in Article 3(3).*

**Amendment 8**

Article 3(5)

<p>'5. Where it is concluded — on the basis of the assessment foreseen in paragraph 4 — that further measures are needed and the financial situation of the Member State concerned has significant adverse effects on</p>	<p>'5. Where it is concluded — on the basis of the assessment foreseen in paragraph 4 — that further measures are needed and the financial situation of the Member State concerned has significant adverse effects on</p>
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Text proposed by the Commission	Amendments proposed by the ECB (1)
the financial stability of the euro area, the Council, acting by qualified majority on a proposal from the Commission, may recommend to the Member State concerned to seek financial assistance and to prepare a macroeconomic adjustment programme. The Council may decide to make this recommendation public.'	the financial stability of the euro area, the Council, acting by qualified majority on a proposal from the Commission, <del>may</del> <b>shall</b> recommend to the Member State concerned to seek financial assistance and to prepare a macroeconomic adjustment programme. The Council may decide to make this recommendation public.'

*Explanation*

*Article 3(5) should be reinforced by obliging the Council to make a recommendation to seek financial assistance if the situation of the Member State concerned has significant adverse effects on the financial stability of the euro area, which indeed provides a very strong justification.*

**Amendment 9**

Article 4

'A Member State wishing to obtain financial assistance from one or several other States, the EFSF, the ESM, the International Monetary Fund (IMF) or another institution outside of the Union framework shall immediately inform the Council, the Commission and the ECB of its intention. The EFC, or any subcommittee the latter may designate for that purpose, shall hold a discussion on this envisaged request, after having received an assessment from the Commission.'	'A Member State <del>wishing to obtain</del> <b>intending to request</b> financial assistance from one or several other States, the EFSF, <del>the EFSM</del> , the ESM, the International Monetary Fund (IMF) or another institution outside of the Union framework shall immediately inform the Council, the Commission and the ECB of its intention. The EFC, or any subcommittee the latter may designate for that purpose, shall hold a discussion on this envisaged request, after having received an assessment from the Commission, <b>with a view to examining, inter alia, the possibilities available under existing Union or euro area financial instruments and facilities of international financial institutions and lenders, before the Member State addresses potential lenders.</b> '
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*Explanation*

*The obligations of euro area Member States should entail more than just information sharing with their European partners and explicitly include the obligation to discuss making use of the different financial assistance facilities available at European and international level. According to Article 1, the scope of the proposed regulation also includes the EFSM.*

**Amendment 10**

Article 5

'Where financial assistance is sought from the EFSF or the ESM, the Commission shall prepare — in liaison with the ECB and, wherever possible, the IMF — an analysis of the sustainability of the government debt of the Member State concerned, including the Member State's ability to repay the envisaged financial assistance, and forward it to the EFC or to any subcommittee the latter may designate for that purpose.'	'Where financial assistance is sought from the EFSF or the ESM, the Commission shall prepare — in liaison with the ECB and, <del>wherever possible</del> <b>appropriate</b> , the IMF — an analysis of the sustainability of the government debt of the Member State concerned, including the Member State's ability to repay the envisaged financial assistance, and forward it to the EFC or to any subcommittee the latter may designate for that purpose.'
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*Explanation*

*In line with current practice, the IMF should be involved in analysing the sustainability of government debt. For reasons of legal certainty, the same wording should be used throughout the text.*

Text proposed by the Commission

Amendments proposed by the ECB (1)

**Amendment 11**

## Article 6

'1. A Member State receiving financial assistance from one or several other States, the IMF, the EFSF or the ESM shall prepare in agreement with the Commission — acting in liaison with the ECB — a draft adjustment programme aimed at re-establishing a sound and sustainable economic and financial situation and restoring its capacity to finance itself fully on the financial markets. The draft adjustment programme shall take due account of the current recommendations addressed to the Member State concerned under Articles 121, 126 and/or 148 of the Treaty — and its actions to comply with them — while aiming at broadening, strengthening and deepening the required policy measures.

2. The Council, acting by qualified majority on a proposal from the Commission, shall approve the macroeconomic adjustment programme.

3. The Commission, in liaison with the ECB, shall monitor the progress made in the implementation of the adjustment programme and inform every three months the EFC or any subcommittee the latter may designate for that purpose. The Member State concerned shall give the Commission its full cooperation. It shall in particular provide to the Commission all the information that the latter deems necessary for the monitoring of the programme. Article 3(3) shall apply.

4. The Commission — in liaison with the ECB — shall examine with the Member State concerned the changes that may be needed to its adjustment programme. The Council, acting by a qualified majority on a proposal from the Commission, shall decide on any change to be made to the adjustment programme.

...

6. A Member State subject to an adjustment programme experiencing insufficient administrative capacity or significant problems in the implementation of its adjustment programme shall seek technical assistance from the Commission.'

'1. A Member State ~~receiving~~ **requesting** financial assistance from one or several other States, the IMF, the EFSF, ~~the EFSM~~ or the ESM shall prepare in agreement with the Commission — acting in liaison with the ECB **and, where appropriate, the IMF** — a draft adjustment programme aimed at re-establishing a sound and sustainable economic and financial situation and restoring its capacity to finance itself fully on the financial markets. The draft adjustment programme shall take due account of the current recommendations addressed to the Member State concerned under Articles 121, 126, **136** and/or 148 of the Treaty — and its actions to comply with them — while aiming at broadening, strengthening and deepening the required policy measures.

2. The Council, acting by qualified majority on a proposal from the Commission, shall approve the macroeconomic adjustment programme. **Where the source of the financial assistance is the EFSM, the EFSF or the ESM, the terms of the Commission proposal shall be in full accordance with those agreed between the parties involved in the context of granting access to the abovementioned Union and intergovernmental facilities.**

3. The Commission, in liaison with the ECB **and, where appropriate, the IMF**, shall monitor the progress made in the implementation of the adjustment programme. ~~and~~ **It shall** inform every three months the EFC or any subcommittee the latter may designate for that purpose. The Member State concerned shall give the Commission its full cooperation. It shall in particular provide to the Commission all the information that the latter deems necessary for the monitoring of the programme. Article 3(3) shall apply. **In the case of insufficient cooperation, the Council, on a proposal from the Commission, may address a public request to the Member State concerned laying down the action to be taken by that Member State.**

4. The Commission — in liaison with the ECB **and, where appropriate, the IMF** — shall examine with the Member State concerned the changes that may be needed to its adjustment programme. The Council, acting by a qualified majority on a proposal from the Commission, shall decide on any change to be made to the adjustment programme.

...

6. A Member State subject to an adjustment programme experiencing insufficient administrative capacity or significant problems in the implementation of its adjustment programme shall seek technical assistance from the Commission, **which may constitute for this purpose groups of experts with Member States and other European Union and/or relevant international**

Text proposed by the Commission	Amendments proposed by the ECB (1)
	<p><b>institutions. Technical assistance may include the establishment of a permanent resident adviser and support staff from the European Union institutions in the Member State concerned, who would advise the authorities of the Member State concerned of the adjustment programme implementation and coordinate with the institutions involved.'</b></p>

*Explanation*

According to Article 1, the scope of the proposed regulation includes the EFSM. The proposed drafting also aims to clarify the responsibilities of the institutions involved.

Paragraph 2 seeks to clarify that Member States benefiting from financial assistance under the arrangements with the EFSM, the EFSF and the ESM will not be asked to prepare two different macroeconomic adjustment programmes, but that rather all economic policy conditions agreed with the Member State concerned in the context of granting access to the EFSM, the EFSF and the ESM will be fully respected in the macroeconomic adjustment programme under this Article.

In paragraph 3, the threat of publicity, if a Member State is uncooperative, may provide an incentive to the Member State to take further action.

Other institutions with relevant expertise and Member States could usefully provide technical assistance in addition to the Commission. A permanent resident adviser would increase significantly, the probability of adequate programme implementation.

**Amendment 12**

Article 11(1), (5)(new) and (6)(new)

<p>'1. A Member State shall be under post-programme surveillance as long as a minimum of 75 % of the financial assistance received from one or several other Member States, the EFSM, the EFSF or the ESM has not been repaid. The Council, acting on a qualified majority on a proposal from the Commission, may extend the duration of the post-programme surveillance.'</p>	<p>'1. A Member State shall be under post-programme surveillance as long as a minimum of 75 % of the financial assistance received from one or several other <del>Member</del> States, the EFSM, the EFSF <del>or</del>, the ESM <b>or other IFI</b> has not been repaid. The Council, acting on a qualified majority on a proposal from the Commission, may extend the duration of the post-programme surveillance.</p> <p>...</p> <p><b>5. The relevant committee of the European Parliament may invite representatives of the Member State concerned to participate in an exchange of views on the post-programme monitoring.</b></p> <p><b>6. Representatives of the Commission may be invited by the Parliament of the Member State concerned to participate in an exchange of views on the post-programme monitoring.'</b></p>
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*Explanation*

The first comment aims at aligning the wording of this article with Article 1(1).

Increased public pressure by the European and national parliaments add to the incentives of Member States concerned to pursue adequate policies. This involvement should also be foreseen for the post-programme surveillance, as it is foreseen in relation to enhanced surveillance (Article 3) and macroeconomic adjustment programmes (Article 6).

Text proposed by the Commission	Amendments proposed by the ECB <sup>(1)</sup>
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**Amendment 13**

## Article 12

<p>'For the measures referred to in Articles 2(1), 3, 6(2), 6(4) and 11(4), only members of the Council representing Member States whose currency is the euro shall vote and the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.</p> <p>A qualified majority of the members of the Council referred to in the first paragraph shall be calculated in accordance with Article 238(3)(b) of the Treaty.'</p>	<p>'For the measures referred to in Articles <del>2(1)</del>, 3(5), 6(2), 6(4), <b>6(5), 11(1)</b> and 11(4), only members of the Council representing Member States whose currency is the euro shall vote and the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.</p> <p>A qualified majority of the members of the Council referred to in the first paragraph shall be calculated in accordance with Article 238(3)(b) of the Treaty.'</p>
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*Explanation*

Article 12 must refer to all the decisions to be taken by the Council.

**Amendment 14**

## Article 13

<p>'The provisions of Article 5 and 6 do not apply to financial assistance granted on a precautionary basis and to loans made for recapitalising financial institutions.'</p>	<p>The provisions of <b>paragraphs (1) to (5) of Article 5</b> and 6 do not apply to financial assistance granted on a precautionary basis and to loans made for recapitalising financial institutions. <b>This is without prejudice to the conditions attached to those types of financial assistance under the respective Union or intergovernmental financial assistance instruments.'</b></p>
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*Explanation*

The exemption from the macroeconomic adjustment programme (Article 6) should be reduced in order not to exclude the provision of technical assistance and the involvement of parliaments. It should concern only the specific situation of a precautionary programme and to loans made for recapitalising financial institutions and be without prejudice to the relevant provisions of the EFSF Framework Agreement, the ESM Treaty and financial assistance instruments implementing such financial assistance. There is merit in keeping open the possibility of assessing the sustainability of government debt in case a Member State receives a precautionary programme in order to verify its eligibility criteria for this programme. Also, in the case of support to recapitalise financial institutions, an assessment of the sustainability of the government debt is warranted, given the close relationship between fiscal sustainability and financial sector instability. Alternatively, the paragraph could be attached to Article 6 for more clarity and Article 13 deleted.

(<sup>1</sup>) Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.