

DECISION OF THE EUROPEAN CENTRAL BANK

of 31 October 2011

amending Decision ECB/2010/15 concerning the administration of EFSF loans to Member States whose currency is the euro, and amending Decision ECB/2010/31 concerning the opening of accounts for the processing of payments in connection with EFSF loans to Member States whose currency is the euro

(ECB/2011/16)

(2011/728/EU)

THE EXECUTIVE BOARD OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 17 and 21 thereof,

Whereas:

(1) Decision ECB/2010/15 of 21 September 2010 concerning the administration of EFSF loans to Member States whose currency is the euro ⁽¹⁾ lays down provisions concerning the opening of a cash account with the European Central Bank (ECB) in the name of the European Financial Stability Facility (EFSF) for the operation of the loan facility agreements (hereinafter the 'Loan Facility Agreements') under the EFSF Framework Agreement, which entered into force on 4 August 2010 (hereinafter the 'EFSF Framework Agreement').

(2) Decision ECB/2010/31 of 20 December 2010 concerning the opening of accounts for the processing of payments in connection with EFSF loans to Member States whose currency is the euro ⁽²⁾ lays down provisions concerning the opening of cash accounts with the ECB in the name of the national central bank of the relevant borrower Member State for the operation of the Loan Facility Agreements under the EFSF Framework Agreement.

(3) The EFSF Framework Agreement has been amended by the Supplemental Amendment Agreement, which entered into force on 18 October 2011. The amended EFSF Framework Agreement has created additional instruments that the EFSF may use to provide financial support. In accordance with paragraph 2 of the Preamble and Article 2(1) of the amended EFSF Framework Agreement, the EFSF may grant loan disbursements, precautionary facilities, facilities to finance the recapitalisation of financial institutions in a euro area Member State (through loans to the governments of such Member States including non-programme countries), facilities for

the purchase of bonds in the secondary markets or facilities for the purchase of bonds in the primary market (all such instruments representing 'Financial Assistance'), to be provided through financial assistance facility agreements (hereinafter the 'Financial Assistance Facility Agreements'). The Loan Facility Agreements may continue to remain in place following the entry into force of the amended EFSF Framework Agreement.

(4) Therefore, Decisions ECB/2010/15 and ECB/2010/31 should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision ECB/2010/15 is amended as follows:

(1) Article 2 is replaced by the following:

'Article 2

Acceptance of payments on the cash account

The ECB shall only accept payments to be made to or from the cash account opened in the name of EFSF, if those payments arise in connection with the Loan Facility Agreements or the Financial Assistance Facility Agreements.;

(2) Article 4 is replaced by the following:

'Article 4

Balance of the cash account

No amount shall be standing to the credit of the cash account opened in the name of EFSF after payments have been made in relation to any Loan Facility Agreement or Financial Assistance Facility Agreement, nor shall amounts be transferred to such cash account before the day on which payments need to be made in relation to any Loan Facility Agreement or Financial Assistance Facility Agreement. No amount shall be standing to the debit of the cash account opened in the name of EFSF at any time. Therefore, no

⁽¹⁾ OJ L 253, 28.9.2010, p. 58.

⁽²⁾ OJ L 10, 14.1.2011, p. 7.

payments shall be effected from the cash account opened in the name of EFSF beyond the amounts standing to the credit of that account.’.

Article 2

Decision ECB/2010/31 is amended as follows:

(1) Article 1 is replaced by the following:

‘Article 1

Opening of cash accounts

The ECB may, upon request of the NCB of a borrower Member State, open cash accounts in the name of such NCB for the processing of payments in connection with a Loan Facility Agreement or Financial Assistance Facility Agreement (hereinafter an ‘NCB cash account’).’;

(2) Article 2 is replaced by the following:

‘Article 2

Acceptance of payments on the cash accounts

An NCB cash account shall only be used to process payments in connection with a Loan Facility Agreement or Financial Assistance Facility Agreement.’.

Article 3

Entry into force

This Decision shall enter into force on 2 November 2011.

Done at Frankfurt am Main, 31 October 2011.

The President of the ECB

Jean-Claude TRICHET
